MONTANA LEGISLATIVE HISTORY

Chapter 480 1995

Bill H 537 S _____ Original bill & history ✓ C

| H. Committee on Business & Labor | | | S. Committee on Business & Industry | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Feb 13 | ✓ C | Hearing Date(s) | Mar 03 | ✓ C |
| | Feb 14 | ✓ C | | Mar 05 | ✓ C |
| | | C | | | C |
| | | C | | | C |
| Date Out | | C | | | |

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Free Conference Committee
Apr 06

HB 536 INTRODUCED BY MILLS, ET AL.

REVISE LAWS RELATING TO OUT-OF-STATE MAIL SERVICE PHARMACIES

| | | | |
|---|---|---|---|
| 2/11 | INTRODUCED | | |
| 2/11 | FIRST READING | | |
| 2/11 | REFERRED TO BUSINESS & LABOR | | |
| 2/13 | FISCAL NOTE REQUESTED | | |
| 2/14 | HEARING | | |
| 2/15 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/15 | FISCAL NOTE RECEIVED | | |
| 2/16 | FISCAL NOTE PRINTED | | |
| 2/17 | REVISED FISCAL NOTE PRINTED | | |
| 2/17 | 2ND READING PASSED AS AMENDED | 89 | 8 |
| 2/20 | 3RD READING PASSED | 96 | 4 |
| | TRANSMITTED TO SENATE | | |
| 2/21 | FIRST READING | | |
| 2/21 | REFERRED TO BUSINESS & INDUSTRY | | |
| 3/14 | HEARING | | |
| 3/15 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/18 | 2ND READING CONCURRED | 46 | 0 |
| 3/20 | 3RD READING CONCURRED | 50 | 0 |
| | RETURNED TO HOUSE | | |
| 3/21 | SIGNED BY SPEAKER | | |
| 3/22 | SIGNED BY PRESIDENT | | |
| 3/23 | TRANSMITTED TO GOVERNOR | | |
| 3/27 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 274 | | |
| | EFFECTIVE DATE: 03/28/95 | | |

HB 537 INTRODUCED BY LARSON, ET AL.

PROHIBIT ESTABLISHMENTS THAT HAVE ONE OR MORE COMMON OWNERS AND VIDEO GAMING MACHINES FROM BEING WITHIN 150 FEET OF EACH OTHER

| | | | |
|---|---|---|---|
| 2/11 | INTRODUCED | | |
| 2/11 | FIRST READING | | |
| 2/11 | REFERRED TO BUSINESS & LABOR | | |
| 2/14 | HEARING | | |
| 2/15 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/17 | 2ND READING PASSED AS AMENDED | 97 | 3 |
| 2/20 | 3RD READING PASSED | 94 | 5 |
| | TRANSMITTED TO SENATE | | |
| 2/21 | FIRST READING | | |
| 2/21 | REFERRED TO BUSINESS & INDUSTRY | | |
| 3/03 | HEARING | | |
| 3/17 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 3/25 | 2ND READING CONCURRED AS AMENDED | 48 | 0 |
| 3/27 | 3RD READING CONCURRED | 47 | 2 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/04 | MOTION FAILED TO CONCUR WITH AMENDMENTS ON 2ND READING | 32 | 65 |
| 4/04 | MOTION FAILED TO SEGREGATE FROM COMMITTEE OF THE WHOLE REPORT | 44 | 50 |
| 4/04 | FREE CONFERENCE COMMITTEE APPOINTED | | |
| 4/06 | HEARING | | |
| 4/06 | FREE CONFERENCE COMMITTEE REPORT NO. 1 | | |
| 4/08 | 2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 87 | 12 |
| 4/10 | 3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 90 | 10 |

| | | | |
|---|---|---|---|
| | SENATE | | |
| 4/05 | FREE CONFERENCE COMMITTEE APPOINTED | | |
| 4/08 | FREE CONFERENCE COMMITTEE REPORT NO. 1 | | |
| 4/10 | 2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 46 | 3 |
| 4/11 | 3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED | 40 | 7 |
| 4/13 | SIGNED BY SPEAKER | | |
| 4/13 | SIGNED BY PRESIDENT | | |
| 4/13 | TRANSMITTED TO GOVERNOR | | |
| 4/15 | SIGNED BY GOVERNOR<br>CHAPTER NUMBER 480<br>EFFECTIVE DATE: 10/01/95 | | |

HB 538 INTRODUCED BY EWER, ET AL.

PROVIDE A CITIZEN THE PRIVATE RIGHT OF ACTION TO COMPEL COMPLIANCE WITH WATER QUALITY STATUTES

| | | | |
|---|---|---|---|
| 2/13 | INTRODUCED | | |
| 2/13 | FIRST READING | | |
| 2/13 | REFERRED TO NATURAL RESOURCES | | |
| 2/15 | HEARING | | |
| 2/17 | TABLED IN COMMITTEE | | |
| 2/23 | MISSED TRANSMITTAL DEADLINE<br>DIED IN COMMITTEE | | |

HB 539 INTRODUCED BY SOFT, ET AL.

AMEND THE YOUTH ACCESS TO TOBACCO PRODUCTS CONTROL ACT

| | | | |
|---|---|---|---|
| 2/13 | INTRODUCED | | |
| 2/13 | FIRST READING | | |
| 2/13 | REFERRED TO HUMAN SERVICES & AGING | | |
| 2/14 | FISCAL NOTE REQUESTED | | |
| 2/15 | HEARING | | |
| 2/17 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/18 | FISCAL NOTE PRINTED | | |
| 2/20 | 2ND READING PASSED AS AMENDED | 88 | 12 |
| 2/22 | 3RD READING PASSED | 84 | 14 |
| | TRANSMITTED TO SENATE | | |
| 2/27 | FIRST READING | | |
| 2/27 | REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY | | |
| 3/13 | HEARING | | |
| 3/17 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 3/25 | 2ND READING CONCURRED | 41 | 7 |
| 3/27 | 3RD READING CONCURRED | 42 | 7 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/03 | 2ND READING AMENDMENTS CONCURRED | 86 | 14 |
| 4/04 | 3RD READING AMENDMENTS CONCURRED | 76 | 23 |
| 4/06 | SIGNED BY SPEAKER | | |
| 4/07 | SIGNED BY PRESIDENT | | |
| 4/10 | TRANSMITTED TO GOVERNOR | | |
| 4/14 | SIGNED BY GOVERNOR<br>CHAPTER NUMBER 439<br>EFFECTIVE DATE: 10/01/95 | | |

HB 540 INTRODUCED BY MOLNAR

GENERALLY REVISE THE MONTANA YOUTH COURT ACT

| | | | |
|---|---|---|---|
| 2/13 | INTRODUCED | | |
| 2/13 | FIRST READING | | |
| 2/13 | REFERRED TO JUDICIARY | | |

**Discussion:**

**REP. LARSON** said he opposed the Ewer amendment.

**REP. ELLIS** said there was considerable discussion for the small operator and this amendment is for the small operator.

**REP. COCCHIARELLA** said she was going to vote against the amendment but the people who were only given five years deserve five more years.

Vote: **Motion to adopt the Ewer amendment failed 6-12 with REPS. BARNETT, ELLIS, EWER, HERRON, MARSHALL and TUSS voting yes.**

Vote: **Motion carried 17-1 with REP. EWER voting no.**

INTRODUCED BY Laura Lavin HOUSE BILL NO. 537

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING ESTABLISHMENTS THAT HAVE A COMMONALITY OF INTERESTS AND THE MAXIMUM ALLOWABLE NUMBER OF VIDEO GAMING MACHINES FROM BEING WITHIN 150 FEET OF EACH OTHER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Permit for premises within 150 feet of another premises.** (1) (a) A licensee may not be granted a permit for the maximum number of video gambling machines allowed on a premises under 23-5-611 if, at the time of application for the permit, the licensee's premises are within 150 feet of, or have an external structural connection not amounting to a common internal wall, as that term is used in 23-5-117, to, a premises that already has a permit for the maximum number of video gambling machines allowed on a premises under 23-5-611 and if the two premises have one or more common owners. A measurement of the distance between two premises must be taken between the nearest exterior wall of each premises.

(b) A premises for which a gambling license was applied for prior to September 1, 1994, is not subject to subsection (1)(a) during the 10-year period following [the effective date of this section]. A premises licensed before January 1, 1985, is not subject to subsection (1)(a) for as long as ownership remains within the immediate family that owned the premises on January 1, 1985, if ownership of the premises on [the effective date of this section] was within the immediate family that owned the premises on January 1, 1985.

(2) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person or entity that controls, is controlled by, or is under common control with another person or entity. The term includes but is not limited to a premises that has:

(i) shareholders, partners, or other individual owners, by trust or otherwise, who are also shareholders, partners, or individual owners, by trust or otherwise, of the other premises;

(ii) shareholders, partners, or other individual owners, by trust or otherwise, who are income taxpayers related to the shareholders, partners, or other individual owners, by trust or otherwise, of the

other premises;

(iii) an agreement with the other premises or the other premises' shareholders, partners, or other individual owners, by trust or otherwise, for the ownership and operation of gaming equipment if the agreement has other financial components, such as a landlord and tenant relationship or noninstitutional financing; or

(iv) a premises rental agreement with the other premises or its shareholders, partners, or other individual owners, by trust or otherwise, at a rental rate other than the market rental rate, as determined by a Montana independent appraisers association appraisal done at the time that the rental rate is set or changed.

(b) "Commonality of business interests" means:

(i) management, bookkeeping, or accounting services that are provided by the same person or entity;

(ii) a contract, deed, contract for deed, concession agreement, or lease, rental, or other agreement, with the same person or entity, except a commercial mall with at least 50,000 square feet and at least eight separate businesses;

(iii) that the same person or entity provides equipment, furnishings, fixtures, or supplies; or

(iv) that the same person or entity, except a financial institution, provides or guarantees the financing for the purchase of the liquor license or of the premises or for operating costs.

(c) "Common owner" means an affiliate, immediate family member, manager, parent or subsidiary business entity, investor, person or entity with a commonality of business interests, or other person or entity able to influence the operator or manager of the premises or to prevent the operator or manager from fully pursuing the premises' separate interests.

(d) "Control" means the power to cause or direct management and policies through ownership, contract, or otherwise.

(e) "Immediate family" means a parent, children, siblings, grandchildren, grandparents, nieces, and nephews.

(f) "Investor" means a person who:

(i) advances or pledges to advance funds with the expectation of a specified or unspecified return;

(ii) guarantees a loan; or

(iii) has an option to participate in the premises.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 23, chapter 5, part 6, and the provisions of Title 23, chapter 5, apply to [section 1].

-END-

revising injunctive relief in exceptional circumstances; revising the circumstances for the recovery of damages and clarifying the impact on other law.

Proponents' Testimony:

**Joe Mazurek, Attorney General, Department of Justice** said the goal of the association is to try to devise uniform laws among the states which will be desirable. States desire to have consistent statutes where needed.

Opponents' Testimony:

None.

Closing by Sponsor:

The sponsor closed.

## EXECUTIVE ACTION ON HB 458

Motion/Vote: **REP. CARLEY TUSS MOVED HB 458 DO PASS. Motion carried 18-0.**

## HEARING ON HB 537

Opening Statement by Sponsor:

**REP. DON LARSON, HD 58, Flathead County** stated this bill was an act prohibiting establishments that have a commonality of interests and the maximum allowable number of video gaming machines from being within 150 feet of each other. **EXHIBIT 1**

Proponents' Testimony:

**Mark Staples, Montana Tavern Association** said the Association tried to stop the stacking of licenses in 1991. Even though the limit was 20 machines, people would just buy another license and own 20 more machines. At that time they were putting these machines in the same room. The Department of Justice and everyone else in the state realized that was outside the intent and was also creating a need for a new class of licenses because it was escalating the price of licenses so much. All of this was very damaging to the licensing system. In 1991, the anti-stacking bill was put through that said the premises must be separated. Those people who had 40 machines in one room were grandfathered for five years to recoup the investment. He then explained the changes in the bill.

**Joe Mazurek, Attorney General, Department of Justice** said his department regulated the gambling in the state. The state became a part of the gambling business in 1989. The location of gaming

ten-year period which would allow those establishments that obtain their licenses prior to September 1, 1994 to become legal. Ten years is a very long time to allow anyone to stop acting illegally and get into compliance with the intent of the law that others are already operating under.

**Dennis Casey, Executive Director, Gaming Industry Association of Montana** stated they support this bill. They recognize that this issue needs to be addressed. Those who have entered into the situations have done so under present law which is clear and specific as to their ability to do so. Sunsetting with ten years is not unfair because investments were made based upon the law at that time. He then discussed the amendments he would propose.

**REP. BOB PAVLOVICH** stated he was a proponent but desired to discuss his ideas in executive session.

Opponents' Testimony:

**Dave Brown** said he was testifying against this bill unless there were amendments.

Questions From Committee Members and Responses:

**REP. BOB PAVLOVICH** said people had $1 million invested and in turn are establishing casinos. He also questioned the smaller taverns in Montana. **Mr. Brown** said small tavern owners also had money invested and there should be equal access for both. He said he had not seen any big casinos putting the little tavern owners out of business.

**REP. ROSE FORBES** questioned the proposed amendments on the all beverage.

**REP. ALVIN ELLIS** stated part of the consideration in the legislature upon the arrival of gambling was to save a failing liquor industry that taverns were having trouble and licenses were dropping to zero value. **Mr. Staples** said the purpose was two-fold. Replenish lost funds for cities and counties because of the loss of federal revenue sharing and save a failing small tavern industry.

**REP. ELLIS** asked for an explanation of the license values since that time. **Mr. Staples** said they obviously resurrected themselves to a healthy level, but still there was some play in it and availability to the general public and those who wanted to buy a license without gaming. In the last four years when the stacking started, licenses began to increase in monetary value to 70%. Those licenses were no longer being used for the purpose of expanding liquor sales. They were being used only to add 20 more machines. They are essentially taking those licenses out of circulation. The pressure is to create a new class of licenses which threatens the value of all licenses.

**REP. ELLIS** said recently these licenses doubled in worth prior to the DUI problem and the things tavern owners face that caused their licenses to drop in value. **Mr. Staples** said there was a natural attrition by the inclusion in gaming.

**REP. DAVID EWER** said the stacking phenomenon was legal. **Mr. Mazurek** said this was a situation of the limits being pushed. The intention was to allow an establishment with a liquor license to have 20 machines. There was an attempt to address this. That was with the premises definition. Buying a premises to avoid combining of licenses, whether it be shared ownership or otherwise, caused the difficulties in the negotiations with Indian gaming. But that was selected as a means to try to ratchet down on the financial ownership. There is another avenue of attack on these as well which is the public convenience and necessity argument. The intention had been to try to maintain 20 machines per establishment.

**REP. JON ELLINGSON** said he understood that there could be only one liquor license per family. **Mr. Mazurek** said the statute indicates it is per person.

**REP. VICKI COCCHIARELLA** asked **REP. EWER** to describe the history of stacking. **Mr. Brown** said in 1989 the initial legislation was enacted which legalized gambling across the state. The Attorney General was a member of the conference committee which consisted of both senators and representatives. The law stated proprietors were allowed 20 machines on one side of the room and 20 machines on the opposite side of the room; this was legal. In 1991 that same number of machines in one room was changed. The law was rewritten. The law now is a scenario which the previous legislature tried to avoid, that of too many machines. Now owners are buying buildings close to each other or next door to each other, licensing each place, different people have the license, all very legal. The object in the beginning was trying to protect the small tavern industry and without gambling in Montana, 50% of the small bars in the state would not be here. With gambling, the bulk of those bars are still here and the better businessmen who see the opportunity to take advantage of the system. There is a fight between the "haves and want mores." It is not a fight between trying to protect folks.

**REP. PAVLOVICH** asked what an all-beverage license cost. **Mr. Mazurek** said $20,000. If the population goes up there are new licenses eligible based on growth of population. There is initially a hearing requirement of who can best serve the public needs.

**REP. PAVLOVICH** then asked the price of a beer and wine license. **Mr. Mazurek** said $5,000 depending upon the population break.

**TAPE 1, SIDE B**

**REP. BOB KEENAN** asked for the answer to **REP. EWER'S** question and could it be referred to again. **Mr. Staples** said the courts have been challenged and in the administrative process the grounds of allowing these machines for the sake of public convenience and necessity. Stacking has been legal in terms of pure legal definition. This is the reason for the ten-year grandfathering.

**REP. ELLIS** said the proponent in the bill obviously wanted to succeed. **Mr. Staples** said creative people will always get around the issue. This goes a long way in addressing the problem. The original stacker, regarding re-couping their investment, did not build separate premises, they brought in 20 more machines. They had to amortize and recover from the investment in the extra license. They have had five years to do that. That license has since appreciated. Plus, now if they put up a wall, they will get grandfathered for ten more years. They do not need an extra ten years to have 40 machines in one room.

**REP. DEVANEY** asked if the walls were now legal. **Mr. Staples** said except for the two who were grandfathered for five years, the walls are now already up. One of the reasons they left them there and did not separate them at the time was the concern about malls being under the same roof. The mall exception was then created. The concern is the threatening of the license system.

**CHAIRMAN SIMON** said it seems as if most of the issues are issues which **Mr. Casey, Mr. Brown** and **Mr. Staples** seem to be fairly close together on. There are a number of issues and suggestions for amendments where there seems to be general agreement. A list of the amendments would be suggested for the committee that are acceptable to all three men. Perhaps they might even come to some type of agreement straight across the board so that it might not be necessary to have **Mr. Brown's** clients arrive and this committee might have a list of amendments which would be agreed to by all.

Closing by Sponsor:

Sponsor closed.

## HEARING ON HB 460

Opening Statement by Sponsor:

**REP. JOE QUILICI, HD 36, Silver Bow County** said this bill was an act establishing a blue ribbon telecommunications task force to examine Montana's telecommunications infrastructure and to make recommendations to the Governor and the legislature to ensure the implementation of policies, practices, and statutes regarding access to advanced telecommunications services; establishing a state special revenue account; providing a general fund appropriation of $50,000 and authorizing additional spending of non-general fund revenue.

## EXECUTIVE ACTION ON HB 526

**Motion/Vote: REP. SLITER MOVED TO TABLE HB 526. Motion carried 13-5 with REPS. ELLINGSON, TUSS, COCCHIARELLA, LARSON and PAVLOVICH.**

## HEARING ON HB 537
Continued from February 13, 1995

**Proponents' Testimony**: (continued)

**Jerry Driscoll, Lucky Strike Casino of Missoula** said on the grandfather portion of the casinos that were stacking prior to the 1991 session, the exception was inserted for those casinos who would like to be treated the same and this new bill will allow this. He also supplied testimony from **William Schrup, CNJ Distributing Corporation, EXHIBIT 29; and Darinda Williams, Mike Williams and Richard Williams, EXHIBIT 30**

## EXECUTIVE ACTION ON HB 537

**Motion: REP. LARSON MOVED HB 537 DO PASS. REP. LARSON MOVED THE CONSENSUS AMENDMENTS.**

**Discussion**:

**REP. PAVLOVICH** said he would oppose the Driscoll amendment because of the fact this issue was taken up at the Tavern Association convention in September in Red Lodge and it was indicated at that time they did not want to grandfather any more establishments.

**Vote: Motion carried to adopt the consensus amendments 18-0.**

**Motion: REP. LARSON MOVED HB 537 DO PASS AS AMENDED.**

**Discussion:**

**REP. COCCHIARELLA** discussed the amendments. In the bill people are given ten years to do stacking. When ten years is granted to one group of 30 people and 3 are left with a total of five years this is not fair.

**REP. PAVLOVICH** said he had drafted the bill to make this process legal. In 1987 the state indicated they were not collecting any revenue from the keno machines. In 1989 other legislation was enacted. Tavern owners have had five years to rectify their problems and he opposed this.

**Motion: REP. EWER MOVED TO ADOPT HIS AMENDMENT.**

# HOUSE OF REPRESENTATIVES

## BUSINESS AND LABOR COMMITTEE

## ROLL CALL VOTE

DATE 2-14-95 BILL NO. 537 NUMBER _____

MOTION: Amend.

| NAME | AYE | NO |
|---|---|---|
| Rep. Bruce Simon, Chairman | | ✓ |
| Rep. Norm Mills, Vice Chair, Maj. | | ✓ |
| Rep. Bob Pavlovich, Vice Chair, Min. | | ✓ |
| Rep. Joe Barnett | ✓ | |
| Rep. Vicki Cocchiarella | | ✓ |
| Rep. Charles Devaney | | ✓ |
| Rep. Jon Ellingson | | ✓ |
| Rep. Alvin Ellis, Jr. | ✓ | |
| Rep. David Ewer | ✓ | |
| Rep. Rose Forbes | | ✓ |
| Rep. Jack Herron | ✓ | |
| Rep. Bob Keenan | | ✓ |
| Rep. Don Larson | | ✓ |
| Rep. Rod Marshall | ✓ | |
| Rep. Jeanette McKee | | ✓ |
| Rep. Karl Ohs | | ✓ |
| Rep. Paul Sliter | | ✓ |
| Rep. Carley Tuss | | |

establishments in the setting of an already regulated industry was the liquor industry. Since the licensees were already investigated, which were restricted essentially to Montana ownership, this was the best way to deal with the growing industry. Problems were starting to be identified in 1991. As gaming started having larger machines and there was more interest, it became more successful. This has been one of the fastest growing segments in the Montana economy. There has been some good economic benefit from this. As it has continued to grow there is a concern. The economic pressure has already started to get to this industry because with only 20 machines people see how successful machines are in a business and they want to acquire more locations. It is a problem which really needs to be looked at. There are problems which arise as a result of the pressure to allow more machines in gambling establishments.

**Ellen Engstedt, Don't Gamble With the Future** is a statewide organization opposed to the expansion of gambling and in favor of stronger regulations of the gambling currently legal in Montana. Their membership is comprised of small business people and their families. They support this bill with one reservation. The issue of stacking gambling licenses has produced a great deal of controversy among the members of the gambling industry particularly those represented by the Montana Tavern Association. They do appreciate the courage and integrity of those operators who have opposed the concept of stacking because they believe as the Association believes, that stacking circumvents the intent of the gambling laws.

When video gambling machines were first legalized by the legislature in 1985, the permitting of the machines was tied to an individual who had possessed an all-beverage liquor license or an on-premises beer and wine license. It was the intent of the 1985 legislature that gambling should be in bars away from small children. The limit of 20 machines was set by subsequent legislatures. The reason for having any gambling was that it is a small business and should be kept as such. That small business accrued $450 million through it last year.

The issue facing this committee is whether an individual, through means of using family members, can divide the establishment into parts with common walls, different exterior entries and legally say those are separate entities and thereby acquire 20 gambling machines for each alleged separate entity. Those individuals in the gambling industry who have protested stacking of liquor licenses in order to get the gambling permits will say this is a circumvention of gambling laws. The Association agrees with that protest, they agree with the new section proposed in the bill that there should be at least 150 feet between gambling operations that are owned by the same or nearly the same parties. They would ask for even a greater distance but she said she did not know what had been reached by those in the gambling industry that produced the 150 restriction. The Association proposes a

EXHIBIT 29
DATE 2-14-95
HB 537

**CNJ DISTRIBUTING CORP.**
P.O. Box 20878
Billings, Montana 59104
406-248-8728

TO: House Committee

RE: House Bill 537

It is beyond my realm of understanding why anyone would introduce of support legislation in the Montana Legislature to take away an investment that a businessman has built through his own sweat and blood.

I would submit that the Legislature knew of, and took provision for, the eventuality of just what this Bill seeks to outlaw when they passed 23-5-117.

We have listened to the argument that gaming in Montana was intended to save "little bars" and never a thought was given to the fact that gaming would become successful for the "big bars". This is said with the idea that the success experienced by the "big bars" is somehow wrong. This is like saying that a grocery store in Rygate is limited on the amount of business they can do, so a grocery store in Billings would be limited to that amount also. The truth is the both the large and small bars should be adhering to the same laws and treated equally by the law.

If this is such a good Bill for the industry, why wasn't the Bill scheduled for committee so as to allow all, proponents and opponents, to participate? I understand opposition to our success by other bar owners, just as I understand petty jealously, but I fail to understand how an elected member of the Legislature can take the attitude that success is to be, not only discouraged, but outlawed.

CNJ Dist. Corp. and HDE Inc. established the Buffalo Palace and Maverick Casinos in Billings following the law as written. Each step of the way the State was kept informed, indeed was consulted, and the State licensed these establishments. Now a Bill comes forth to say; "Forget the fact that you made this investment under the law. We've decided that you've made as much out of the investment as you should and the State now feels you should sell your business." Again I fail to see the logic in this position.

Further, I don't understand why it is possible to own two gaming establishments, or more, if they are in separate towns, or indeed opposite sides of town, yet if you dare to own side by side, even though legally established, you must sell these establishments at some time in the future. Support for this Bill has come from establishment owners in this category. Changes were made to the Bill in order that specific operators would not be affected, and certain others would. Why not just name the offending parties and

A good Bill for Montana? I think not. Rather it is a hastily written, vindictive Bill.

I cannot support any Bill which interferes with the free enterprise system.

Respectfully submitted,

William T. Schrup
Director of Operations
CNJ Distributing Corp.
Billings, Mt 59104

# HOUSE STANDING COMMITTEE REPORT

February 14, 1995



Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 537** (first reading copy -- white) **do pass as amended.**

Signed: _____
*Bruce Simon, Chair*

**And, that such amendments read:**

1. Title, line 5.
Strike: "THE MAXIMUM ALLOWABLE NUMBER OF"

2. Page 1, lines 11 and 14.
Strike: "the maximum number of"

3. Page 1, line 18.
Strike: "a gambling"
Insert: "an on-premises alcoholic beverages"
Following: "was"
Insert: "granted or"
Strike: "September 1, 1994"
Insert: "January 1, 1995"

4. Page 2, lines 11 and 12.
Strike: subsection (i) in its entirety
Renumber: subsequent subsections

5. Page 2, line 15.
Following: "businesses;"
Insert: "or"

Committee Vote:
Yes 17 No 1

6. Page 2, line 16.
Strike: subsection (iii) in its entirety
Renumber: subsequent subsections

-END-

JOKER'S WILD
4829 N. RESERVE
MISSOULA, MT 59802

CASINO • RESTAURANT • LOUNGE
Phone (406) 549-4403

EXHIBIT 30
DATE 2-14-95
HB 537

FEBRUARY 9,1995

RE: LUCKY STRIKE
CASINO&RESTAURANT

TO WHOM IT MAY CONCERN:

WE WOULD LIKE TO LET YOU KNOW, THAT WE FEEL "THE LUCKY STRIKE" IS AN ASSET TO THE COMMUNITY, AND THEY SHOULD BE ABLE TO CONTINUE THEIR OPERATION AS IS. "THE LUCKY STRIKE IS A CLEAN,ORDERLY,AND WELL-MANAGED BUSINESS WHICH EMPLOYS MANY MISSOULIANS. THANK YOU FOR YOUR CONSIDERATION.

Darinda J Williams

DARINDA J. WILLIAMS

Mike Williams

MIKE WILLIAMS

Richard H. Williams

RICHARD H. WILLIAMS

**SEN. THOMAS BECK** had agreed to carry **HB 527.**

## HEARING ON HB 537

Opening Statement by Sponsor:

**REP. DON LARSON, HD 58, Seeley Lake,** distributed copies of the Fact Sheet, **EXHIBIT #4** and said the purpose of **HB 537** was to stop the stacking of alcoholic beverage licenses, explaining stacking meant placing one alcoholic beverage license on top of another in order to get around the legal limit of 20 machines per alcoholic beverage license.

**REP. LARSON** said there was a prohibition against owning more than one hard liquor license, though it was legal to own more than one beer or wine license. He stated the tavern industry imposed upon itself a 20-machine limit for alcohol beverage licenses, and the legislature repeatedly emphasized it wished to keep gaming in control; however, "clustering" had become the means by which to circumvent the intent of the law. He said the problem was: (1) Montana Tavern Association agreed with the Justice Department "clustering" flew with the legislative intent of only 20 machines; (2) Beer and wine licenses were pulled out of circulation because of the acquisition of 20 more machines.

Proponents' Testimony:

**REP. BOB PAVLOVICH, HD 37, Butte,** reviewed the history of the Poker and Keno machines in Montana, from 1985 to present, saying almost every legislature had dealt with problems which had sprung up, i.e. more beer and wine licenses in order to acquire more machines, and all in the same building. He said when Poker first came to Montana in 1985, the intent was five machines but the number was changed to 20 per alcohol license, which pleased everyone. **REP. PAVLOVICH** reminded the committee **HB 537** was to stop the "clustering" of alcoholic beverage licenses.

**Mark Staples, Montana Tavern Association,** said his association overwhelmingly supported **HB 537**; in fact, brought it to the forefront out of concern for the Montana licensing system. He referred to the last page of **EXHIBIT #4** to inform the committee of other supporters. **Mr. Staples** said "clustering" of licenses should not be allowed because: (1) Flew in the face of the intent of limiting the machines to 20 on the premises; (2) Beer and wine licenses were used to increase the number of machines, and the licenses were not necessary for the sale of more liquor. What actually happened when beer and wine licenses were used unnecessarily was there were fewer licenses available, which raised the prices, which drove the demand to ask for a new class of licenses, which took the value of current licenses down, which cut the $100 million investment. **Mr. Staples** said the Justice Department considered "clustering" an expansion of gambling, and

he agreed, saying if **HB 537** didn't pass, gaming would be expanded.

**Mr. Staples** referred to **EXHIBIT #4** and reiterated the history of the problem, stressing the fact the machine operators had really done nothing illegal. He said because of that, **HB 537** deference should be given to the present operators by giving them a 10-year grandfather to recoup the investment. He wondered if the stackers (there were only two left), who in 1991 received five years, should be allowed ten years.

**Mr. Staples** said **HB 537** would allow a commonality of interest, (same management, same accounting, money going into one account) but not a distance of 150 feet. He explained amendments which **REP. LARSON** supported: (1) Page 1, Line 20 -- Strike "5-Year"; insert "10-Year"; (2) Amendments as per **EXHIBIT #5**.

**Mr. Staples** distributed copies of a letter from James Grubbs, President, Yellowstone County Licensed Beverage Association, (YCLBA) **EXHIBIT #6**, and explained the YCLBA was a protester in Billings that past fall, and to date, was winning. He reminded the committee the Justice Department, Montana Tavern Association and other Montana tavern associations all supported **HB 537.**

**Janet Jessup, Department of Justice,** said the Attorney General supported **HB 537** in the House hearing, explaining current legislation's policy toward gambling was small scales and small stakes which they did not intend to change. **Ms. Jessup** said the Attorney General's office believed **HB 537** reiterated that policy. She said they believed the bill was very clear and easy to understand and administer. **Ms. Jessup** urged support of **HB 537.**

**Jerry Driscoll, Lucky Strike Casino & Gold Rush Casino,** said he had been involved in gaming since 1987. He distributed copies of amendments, **EXHIBIT #7,** which would give five more years to those who were grandfathered in 1991. **Mr. Driscoll** said the amendments were a fairness issue for those people because they had done nothing illegal. He expressed support for amendment #2 as per **EXHIBIT 5.**

**Larry Akey, Montana Coin Machine Operators Association,** said the question of whether multiple businesses in close proximity, each with 20 machines, was a legitimate matter for public policy. He said clusterers had done nothing illegal, and it was up to the legislature to decide whether that type of practice should continue. **Mr. Akey** urged the committee not to preclude legitimate business practices, such as guaranteeing of loans and commonality of business. He urged the committee to adopt language on commonality of business interests before concurring with **HB 537.**

**Ron Ulrich,** read his written testimony, **EXHIBIT #8.**

**Bill Wheeler, Gold Rush Casino, Butte,** distributed copies of 23 proponent letters, **EXHIBIT #9** and quotes from letters, **EXHIBIT #9A.** He urged support for **HB 537** and to extend the grandfather clause so they could continue to do business as they had for the past eight years. He said the loss of the grandfather clause would most likely result in the loss of the only full-service restaurant in uptown Butte,

*{Tape: 1; Side: B}*

lost tax revenues for county and state and a trickle-down effect for the entire community. **Mr. Wheeler** said when his parents opened Gold Rush Casino in 1987, it was legal to have 45 machines and it was this knowledge which influenced them to commit money and time into an 8,000 sq. ft. building. He said when, in 1989, the legal number of machines was reduced to 20, his parents purchased an additional liquor license and split the businesses. **Mr. Wheeler** reminded the committee **HB 537** without the amendments would close his parents' business; therefore, he asked the committee to amend **HB 537** so the grandfather clause would be 10 years.

**Ellen Engstedt, Don't Gamble With The Future,** read her written testimony, **EXHIBIT #10.**

**Opponents' Testimony:**

**Dennis Casey, Gaming Industry Association of Montana,** expressed opposition to **HB 537** in its current form because: (1) The language of "common owner" on Page 2, Lines 19-22, was too broad and far-reaching when it included "commonality of business interests"; (2) The thrust of **HB 537** to close businesses which have been established in full conformity to Montana law. He said in 1991, **23-5-117** established clarification in which gambling establishments could adjoin each other. He stated operations could be next to each other as long as there was a wall between, the public entrances were outside and separate and internal entrances would be for employees only. Since then, many Montana businesses had open establishments based on that clear language, i.e. local zoning board approvals, purchasing and making application for alcoholic beverage licenses, obtaining gambling licenses.

**Mr. Casey** said **HB 537** would ask the legislature to change the law and it would adversely affect the businesses. He asked the committee to consider affecting future development only, not the established businesses. He urged an amendment to grandfather those businesses which began prior to January 1, 1995; it could be done by striking Lines 20-23 on Page.

**Dave Brown, Restaurant and Lounge Coalition,** read his written testimony, **EXHIBIT #11** and amendments as per **EXHIBITS #11A, #11B, #11C.** He also presented letters of opposition, **EXHIBITS #12, #13 & #14.**

**David Hemion, Montana Association of Churches,** expressed support for **HB 537** as it was approved by the House; however, his organization opposed the amendments presented today. He said the legislature permitting 20 machines was a compromise up, and ways were found to get more entertainment through stacked licenses. The legislature didn't approve, so the entertainment was clustered; however, the intent was to limit gambling, not see it grow. He urged the committee to draw the line and keep the limit to five years. **Mr. Hemion** said money, not entertainment, was driving the clustering and "tough" to those who had made a bad investment by trying to circumvent the legislature.

**Gordian E. Kiedrowski, Riverboat Casino, Billings,** stressed he had obeyed all the laws, jumped through all the hoops, and made a substantial investment. He requested he be grandfathered.

**Bill Schrup, Doc and Eddy's Casino, Billings,** read his written testimony, **EXHIBIT #15.**

Questions From Committee Members and Responses:

**SEN. WILLIAM CRISMORE** asked about the four side-by-side bars in Dillon and the idea one would have to sell. **Mark Staples** said big families have big operations and solutions could be letting the situation go or perpetually grandfather them, which would give a monopoly. He said people wanted **HB 537** killed, yet they needed to keep it alive because of the grandfather feature.

**SEN. SPRAGUE** asked if **HB 537** needed more time, if the Senate should fix it or if there should be a subcommittee. **REP. LARSON** said **HB 537** left the House fairly clean; however, the issue before the committee was how much grandfather should be allowed. He urged the committee to accept his amendments which restored the grandfather to 10 years and clarified the commonality of business interests.

**SEN. SPRAGUE** asked if stacking was the ingenuity of using the building in the best way and if the amendments were a problem. **Janet Jessup** said she would oppose the amendments which watered down the language so the intent was no longer clear, because vague law produced excessive regulations and rules. She opined the intent of the original bill was fairly clear and would be easy to administer.

**SEN. GARY FORRESTER** asked for **Dave Brown's** opinion of the owners who owned the establishment. **Mr. Brown** said in the case of the Dillon bar, the establishment across the alley was bought after January 1, 1995. He said if the footage requirement was removed, it would not be legal to have more than 20 machines under one roof, but it would be legal to have 20 machines next door. He said it was his opinion it didn't matter where the building was located, as long as there was commonality of ownership.

**SEN. CASEY EMERSON** asked if the beer and wine licenses were unlimited. **Mark Staples** said the number was not unlimited; however, one could own an unlimited number of the limited.

**SEN. SPRAGUE** asked **Bill Wheeler** if he felt he was well treated by the industry. **Mr. Wheeler** said he was feeling uncomfortable because they were fighting for their lives when they opened their business in 1987, and the loss of one of their licenses at the present time would serve them a death warrant.

Closing by Sponsor:

**REP. LARSON** said the purpose of **HB 537** was to keep the small tavern owner in business with a 20-machine limit. He stated clustering allowed and encouraged out-of-state interests to become involved. He reminded the committee the issue before them was how to equitably treat the casino owners who clustered and stacked their machines before and after 1991. He maintained his amendment fairly treated them. **REP. LARSON** pointed out the confusing issue of grandfathering affected a minority, and urged legislative policy which would fit the greatest number. He said if the square footage were removed, it would be better to kill **HB 537**. **REP. LARSON** urged the committee to accept the amendments, which supported the tenure and clarified the commonality of interests, and to pass **HB 537**.

## HEARING ON HB 559

Opening Statement by Sponsor:

**REP. WILLIAM "RED" MENAHAN, HD 57, Butte,** said **HB 559** was to allow pinochle tournaments for nonprofit organizations. He reported the Attorney General had included his amendments, so he had no opposition to **HB 559**.

*{Tape: 2; Side: A}*

Proponents' Testimony:

**Janet Jessup, Department of Justice,** expressed support for **HB 559**.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

**SEN. EMERSON** asked about the procedure to get the permit. **REP. MENAHAN** said they had to write to the Department of Justice for the permit. **SEN. EMERSON** asked if there was a charge and **Janet Jessup** said the cost was $25.

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE

ROLL CALL DATE 3-3-95

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| STEVE BENEDICT, VICE CHAIRMAN | ✓ | | |
| WILLIAM CRISMORE | ✓ | | |
| CASEY EMERSON | ✓ | | |
| GARY FORRESTER | ✓ | | |
| TERRY KLAMPE | ✓ | | |
| KEN MILLER | ✓ | | |
| MIKE SPRAGUE | ✓ | | |
| BILL WILSON | ✓ | | |
| JOHN HERTEL, CHAIRMAN | ✓ | | |
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| Bart Campbell | – | | |
| Lynette Lamm | – | | |
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# *PRESENTED BY THE MONTANA TAVERN ASSOCIATION*

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-3-95
BILL NO. HB 537

## *FACT SHEET ON HOUSE BILL 537*

**PURPOSE OF BILL**: TO STOP STACKING OF ALCOHOLIC BEVERAGE LICENSES FOR PURPOSES SKIRTING THE 20-GAMING-MACHINE-PER-LOCATION LIMIT. (Presented by Rep. Donfors

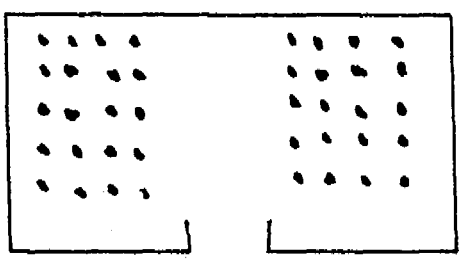
**WHO SUPPORTS THE BILL**: THE JUSTICE DEPARTMENT, THE MONTANA TAVERN ASSOCIATION, TI GAMING INDUSTRY ASSOCIATION, DON'T GAMBLE WITH THE FUTURE, THE MONTANA COUNCIL CHURCHES, AND MANY OTHERS. **PLEASE VOTE "DO PASS" FOR THIS BILL "AS IS," *WITHOUT* AI AMENDMENTS OTHER THAN THE SPONSOR'S. FURTHER TAMPERING WITH IT COULD JEOPARDI PASSAGE OF ANY BILL, WHICH WOULD BE DISASTROUS. WE NEED TO STOP THIS PRACTICE!**

**WHO OPPOSES THE BILL**: THE OPERATORS WHO HAVE TAKEN ADVANTAGE OF THIS PRACTICE.

**WHAT IS "STACKING" EXACTLY?** IT IS THE PLACING OF MORE THAN ONE ALCOHOLIC BEVERA LICENSE OWNED BY THE SAME ENTITY IN IMMEDIATE PROXIMITY TO ANOTHER, SO AS TO "STACK" "CLUSTER" GAMING MACHINES BEYOND THE 20-MACHINE-PER- LOCATION LIMIT.

IN 1991, THIS LEGISLATURE ATTEMPTED TO STOP THE PRACTICE WHICH WAS THEN GOING ON PUTTING MULTIPLE SETS OF 20 MACHINES IN ***ONE*** ROOM. (SEE DRAWING LEFT BELOW.) IN 1991, TI LAW WAS CLARIFIED TO STATE THAT EACH PREMISE CONTAINING 20 MACHINES HAD TO COMPLETELY SEPARATE, WITH SEPARATE EXTERNAL ENTRANCES. THIS STOPPED THE ORIGIN "STACKING" BEFORE IT COULD GET OUT OF HAND. THOSE PEOPLE WHO HAD BOUGHT AN EXTI ALCOHOLIC BEVERAGE LICENSE AND PLACED IT ON THEIR PREMISE SOLELY FOR THE PURPOSE OF MORE MACHINES WERE GIVEN 5 YEARS TO AMORTIZE THE COST OF THE EXTRA LICENSE AND GET R OF IT ... OR SEPARATE THEIR PREMISES.

1991 - "STACKING"

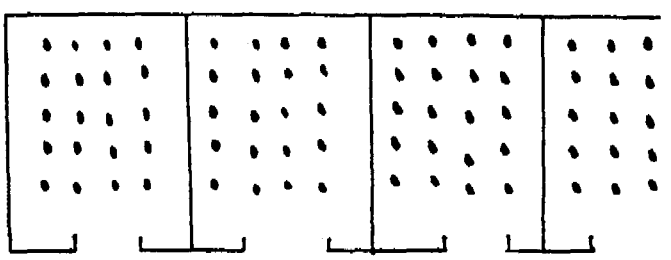


OLD "STACKERS"

MORE THAN 20 MACHINES IN ONE SINGLE PREMISE (BY JOINING MORE THAN ONE ALCOHOL LICENSE OWNED BY ONE ENTITY).

PRACTICE STOPPED BY LEGISLATION IN 1991 ... GIVEN 5 YEARS TO GET RID OF SET-UP AND RECOUP COSTS OF EXTRA LICENSE(S) AND MACHINES.

1995 - "CLUSTERING"



NEW "STACKERS"
(OR "CLUSTERERS")

20 MACHINES IN MULTIPLE SIDE-BY-SIDE PREMISES (EACH WITH SEPARATE ALCOHOL LICENSE), OFTEN WITH COMMON LOBBY OR HALLS, ALL OWNED OR CONTROLLED BY THE SAME ENTITY.

IN 1994-1995, A NEW VARIETY OF "STACKING" HAS EMERGED CALLED "CLUSTERING," WHICH SIMPLY INVOLVES ONE ENTITY PUTTING TWO OR MORE ALCOHOLIC BEVERAGE LICENSES CONTROLLED BY THAT ENTITY IN A LINE SO THAT EVEN THOUGH THEY HAVE SEPARATE WALLS AND EXTERIOR ENTRANCES, THEY ESSENTIALLY MAKE UP ONE CONTIGUOUS GAMBLING ROW OR BLOCK, WHERE THE EXTERIOR ENTRANCES OPEN ON TO ONE AREA OR ARE CONNECTED BY A SERIES OF HALLS OR LOBBIES.

**WHY IS THIS A PROBLEM?** FIRST OF ALL, BECAUSE IT FLIES IN THE FACE OF THE LEGISLATIVE INTENT TO LIMIT ONE LOCATION TO 20 MACHINES. SECOND, BECAUSE ALCOHOLIC BEVERAGE LICENSES WOULD NOT BE NEEDED TO EXTEND THE LOCATION'S ALCOHOL OFFERINGS, WHICH IT COULD DO SIMPLY BY EXPANDING ITS PREMISES, THE ACQUISITION OF THE EXTRA ALCOHOL LICENSE IS SOLELY FOR THE PURPOSE OF ADDING MORE GAMING MACHINES. THIS ESSENTIALLY TAKES THOSE ALCOHOLIC BEVERAGE LICENSES OFF THE MARKET, THEREBY DRIVING UP THE PRICE OF EXISTING ALCOHOLIC BEVERAGE LICENSES, THEREBY CREATING PRESSURE ON THE LICENSING SYSTEM AND THREATENING THE VALUE OF LICENSES OVERALL. **NOTE: INDEED, IF THE LICENSING SYSTEM WERE TO FALL, OR A NEW CLASS OF LICENSES CREATED, THE EFFECT INEVITABLY WOULD BE TO EXPAND GAMBLING IN MONTANA EXPONENTIALLY.**

**WHAT DOES THIS BILL DO?** IT SAYS THAT ANY TWO ESTABLISHMENTS THAT HAVE GAMBLING MACHINES WHICH ESTABLISHMENTS ARE ALSO COMMONLY OWNED MUST BE SEPARATED BY AT LEAST 150 FEET.

**WHY THE 10-YEAR GRANDFATHER FOR THOSE WHO HAVE AFFECTED PREMISES?** BECAUSE THEY *BUILT* SEPARATE PREMISES WITH ALL THOSE ATTENDANT COSTS *AND* PURCHASED THE EXTRA LICENSES AND MACHINES THAT WENT INTO THOSE PLACES. THEY SHOULD BE GIVEN TIME TO RECOUP THOSE EXPENSES.

**WAS THIS PRACTICE LEGAL OR ILLEGAL WHEN THEY ENGAGED IN IT?** IT WAS LEGAL, ACCORDING TO THE INTERPRETATIONS OF THE JUSTICE DEPARTMENT AND THE DEPARTMENT OF REVENUE AT THE TIME. THAT DOESN'T MEAN THAT IT SATISFIED LEGISLATIVE INTENT OR THAT IT SHOULD BE CONTINUED, IT JUST MEANS THAT IT MET STATUTORY MUSTER. THAT'S ANOTHER REASON THEY SHOULD BE GIVEN AN OPPORTUNITY TO RECOUP THEIR INVESTMENTS.

**SHOULD THE OLD "STACKERS" BE GRANDFATHERED IN WITH THE NEW "CLUSTERERS"?** THE OLD "STACKERS" (THREE OF THEM) HAVE ALREADY BEEN GIVEN 5 YEARS IN WHICH TO HAVE MORE MACHINES ON THEIR PREMISES THAN ANYONE ELSE IN THE STATE. THESE "STACKERS" DID NOT HAVE TO BUILD SEPARATE PREMISES, SO THEY DO NOT HAVE THE SAME CONSTRUCTION COSTS TO RECOUP. DURING THE 5 YEARS THAT THEY'VE ALREADY HAD, THEIR EXTRA LICENSES HAVE GROWN IN VALUE AND THEY'VE HAD MORE THAN ENOUGH TIME TO RECOUP THE COSTS OF PUTTING IN THE EXTRA MACHINES. IN ADDITION, TO TAKE ADVANTAGE OF THE GRANDFATHER BEING OFFERED THE NEW "CLUSTERERS," THEY MUST SIMPLY, AT THIS TIME, SEPARATE THEIR PREMISES, WHICH WOULD NOT BE AN OPPRESSIVE UNDERTAKING FOR EITHER OF THE TWO ESTABLISHMENTS STILL LEFT IN THE ORIGINAL "STACKING" CONFIGURATION. BOTH ALREADY HAVE SEVERAL SEPARATE ROOMS IN WHICH THE ENTERPRISES COULD BE PLACED. THEY WOULD THEN HAVE THE SAME 10 YEARS AS THE OTHER SEVERAL DOZEN "CLUSTERERS" WOULD TO RECOUP *THOSE* INVESTMENTS, AND THEN DIVEST OF THE PRACTICE ENTIRELY.

**WHAT ABOUT OLDER BARS AND TAVERNS ON "MAIN STREET" MONTANA THAT ARE SIDE-BY-SIDE? WILL THEY BE PROHIBITED?** NO. FIRST OF ALL, MOST OF THOSE ARE NOT COMMONLY OWNED. BUT SECOND, EVEN IF THERE ARE SEVERAL INSTANCES WHERE TWO BROTHERS OWN SIDE-BY-SIDE ESTABLISHMENTS, THEY WOULD NOT BE AFFECTED BY THIS BECAUSE PRESUMABLY THEY WERE IN PLACE BEFORE 1985, WHEN GAMBLING FIRST CAME INTO MONTANA, SO THEY COULD NOT BE SAID TO BE "STACKING" *OR* "CLUSTERING," AND THIS BILL EXEMPTS THEM FROM THESE PROVISIONS *AS LONG AS* THOSE ESTABLISHMENTS STAY WITHIN THE SAME FAMILIES.

JUST SO YOU'LL KNOW HOW WIDESPREAD THE CONSENSUS OF OPINION IS ON THIS BILL, THE YELLOWSTONE COUNTY TAVERN ASSOCIATION, THE SILVER BOW COUNTY TAVERN ASSOCIATION, THE MISSOULA COUNTY TAVERN ASSOCIATION, THE FLATHEAD COUNTY TAVERN ASSOCIATION, THE CASCADE COUNTY TAVERN ASSOCIATION, THE GALLATIN COUNTY TAVERN ASSOCIATION, THE RAVALLI COUNTY TAVERN ASSOCIATION, THE JEFFERSON, LEWIS AND CLARK, AND BROADWATER COUNTY TAVERN ASSOCIATION, THE HILL COUNTY TAVERN ASSOCIATION, THE CUSTER COUNTY TAVERN ASSOCIATION, AND IN FACT, EVERY TAVERN ASSOCIATION IN THE STATE OF MONTANA HAS VOICED ITS STRONG SUPPORT OF THIS BILL, AND IN FACT, DEMANDED AT THE STATE CONVENTION THAT THE MONTANA TAVERN ASSOCIATION BRING IT AND SEEK TO PASS IT THROUGH THIS LEGISLATURE.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3-3-95
BILL NO. HB 537

# AMENDMENTS TO HOUSE BILL 537

Presented by Mark Staples

Third Reading Copy, As Amended

Submitted to the Senate Business and Industry Committee
at the request of Representative Don Larson
March 3, 1995

1. Title, line 4 and 5.
   Strike: "A COMMONALITY OF INTERESTS"
   Insert: "ONE OR MORE COMMON OWNERS"

2. Page 2, line 14.
   Following: "agreement"
   Insert: "involving real property"

3. Page 2, line 17.
   Following: "provides"
   Strike: "or guarantees"

3. Page 2, line 18.
   Following: "financing for"
   Strike remainder of line 18.
   Insert: ": (A) the purchase of the liquor license;
   (B) the purchase of the premises; or
   (C) operating expenses, except for expenses allowed under 23-5-130, of more than $25,000."

4. Page 2, line 29.
   Strike: "(ii) guarantees a loan;"
   Renumber subsequent subsection.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 6
DATE 3-3-95
BILL NO. HB 537
(Presented by Mark Staples)

Mr, Chairman,
Members of the Committee:

My name is Jim Grubbs. I am a casino/restaurant owner from Billings and I am currently President of the Yellowstone County Licensed Beverage Association. I apologize for not testifying in person but prior commitments precluded me from attending today. The Y.L.B.A. has been in concert with the M.T.A. in drafting legislation to stop the practice commonly known as "stacking". This practice, if left unabated, would begin to accumulate all beverage & beer and wine licenses in casino locations for no other reasons than to expand the number of allowable machines from 20 to 40, 60 or, who knows?!! This legislation is meant to accomplish two things:

1) To adhere to the gambling law limits as they were intended by the legislature, and more importantly,

2) To keep the liquor license quota system from being subjected to pressures that have nothing to do with the orderly dispensing of alcohol to the residents of Montana on the basis of convenience and necessity as provided for by the M.C.A. We have brought this legislation as a "self policing" tool and I hope the committee will see fit to let this bill see a vote by your peers.

Thank you,

James L. Grubbs

James L. Grubbs
President
Yellowstone County Licensed Beverage Assoc.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 7
DATE 3-3-95
BILL NO. HB 537

Amendments to House Bill No. 537
First Reading Copy

(Presented by Jerry Driscoll)

Requested by Rep. Cocchiarella
For the Committee on Business and Labor

Prepared by John MacMaster
February 13, 1995

1. Title, line 6.
Following: "OTHER"
Insert: "; EXTENDING FOR FIVE YEARS THE RIGHT TO CONTINUE A SECOND OPERATOR'S LICENSE FOR A PREMISES SUBJECT TO CURRENT ADJACENT PREMISES REQUIREMENTS; AND AMENDING SECTION 23-5-117, MCA"

2. Page 3, line 1.
Following: page 2
Insert: "**Section 2.** Section 23-5-117, MCA, is amended to read:

"**23-5-117. Premises approval.** (1) Except as provided in subsection (4), the department may approve a premises for issuance of an operator's license if the premises meets the requirements contained in subsections (2) and (3).

(2) The premises must:

(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;

(b) have a unique address assigned by the local government in which the premises is located; and

(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued.

(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling and may not contain an internal entrance through which public access is allowed.

(4) A second operator's license may be issued or renewed until June 30, ~~1996~~ 2001, for a person operating a gambling activity on a premises that did not meet the requirements of subsections (2) and (3) if:

(a) the second operator's license was issued to the person on or before January 1, 1991; or

(b) (i) the application for the second operator's license was received by the department on or before January 1, 1991;

(ii) a second on-premises alcoholic beverages license was obtained for the premises on or before January 1, 1991; and

(iii) substantial physical modifications to the premises were made on or before January 1, 1991.""

Renumber: subsequent section

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 8
DATE 3-3-95
BILL NO. HB 537

TESTIMONY OF RON ULRICH

ADDRESS: 105 Tahoe
Missoula, Montana 59803

PHONE: 251-2818

FOR: HOUSE BILL 537, if amended
MARCH 3, 1995

I have lived in Missoula with my wife Julie for the past 17 years. I began my involvment in the liquor business in 1979 as one of the owners of the Five Valleys Bowl. I later sold my interest in the Five Valley Bowl and, in 1989, I formed a corporation and bought a liquor license to place in the same building with another liquor license. At that time, the Gambling Control Division was not reviewing and approving floor plans. I contacted the Montana Department of Revenue and advised them of my plan. I also forwarded a floor plan to the Department of Revenue for approval. The Department of Revenue granted the approval.

After getting approval, my landlord invested over 1.1 million dollars in remodeling the building, as approved by the Department of Revenue, over the next five or six months. The money was borrowed from a local bank, the First Security Bank of Missoula, as part of an SBA loan. The loan was amortized over 15 years at a current interest rate of 11.5% The landlord then set my lease payments at a level that would allow my monthly lease to compensate for the monthly payment on the loan.

In the fall of 1990, within days before we were to open, the Gaming Control Division of the Department of Justice advised us that, without passing any rule or written policy, they had now

decided to regulate and approve the floor plans of premises and they would not approve of our premises. They would not let us open.

In 1991, Senate Bill 647 was introduced by Senator Gage to make what we did illegal by statute. I asked that my business be grandfathered, but was unsuccessful. Instead, I received a five year grace period. That lapses June 30, 1996.

I am here to ask that you reconsider grandfathering my premises or to, at least, grant me an extension in accordance with the extension that is currently being requested by other parties here today who, like me, created a premises that was entirely legal at the time of its inception, but is now being made illegal. It is my understanding that the majority of my competitors in Missoula have written letters which have been delivered or will, today, be delivered to this committee explaining that they have no objection to my request.

I do so because of the tremendous capital outlay involved in my project and my inability to make lease payments designed to recover that outlay in the short time that has elapsed since I opened the business.

Thank you for your consideration of my plight.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9
DATE 3-3-95
BILL NO. HB 537

(presented by Bill Theiler)

February 22, 1995

Re: Gold Rush Casino
Butte, Montana

To Whom it May Concern:

I am writing in support of the Gold Rush Casino to the 54th legislature. The Gold Rush Casino was licensed legally by the state and in my opinion should be left to operate as they are. This is a large building and restaurant that has a high overhead. They are an asset to Butte and especially the uptown area.

Sincerely,

Harry Faroni

Freeway Tavern
2001 S. Montana
Butte, Montana 59701

To whom it may concern,

It is of my opinion that the Gold Rush casino should remain as a business as is. The Gold Rush is a major tax payer in historic uptown Butte, it is a great place to dine and relax with family and friends.

Thank you for your attention to this matter

Charles Delaney

DELANEY'S VU VILLA, INC.
521 W. Park St.
Butte, Montana 59701

EXHIBIT 7
DATE 8-3-95
HB 537

February 22, 1995

RE: The Gold Rush Casino
Butte, Montana

To Whom it May Concern:

We have been patrons of the Gold Rush Casino since it's opening in 1987, are the former owners of P.J. Sports and currently own Winter Garden Lanes.

As a business and bar owner in Butte, we understand the value that the Gold Rush Casino adds to our community and uptown area. Our uptown area relies on positive businesses like the Gold Rush. The Gold Rush Casino was started in an existing building that housed a long time car dealership and most recently two unsuccessful restaurants. In a time when many businesses are moving out to the flats and near the interchanges, the Gold Rush made a permanent commitment to our historic uptown area. They provide employment to approximently 75 people, making them one of our larger employers. They provide entertainment and food services for our uptown community which is mostly a senior population. The business is well run and is a enjoyable place to go for eating and entertainment.

Any efforts taken to in any way change how the Gold Rush Casino currently conducts business would be detrimental to our community and to the state. The Gold Rush is a healthy contributor to our tax base. They contribute generously to our charities and local businesses. The spin-off of what was created from an empty building in uptown Butte has been enormous. Why end that with needless legislation.

Thank you for your time.

Sincerely,

Dennis Henderson

Dennis and Diane Henderson
Winter Garden Lanes
1315 S. Montana
Butte, Montana 59701
(406)723-8172

Dave Cantwell
Scandia Bar
537 S Main
Butte, Mt 59701

20 February 1995

Dear 54th Legislature:

On behalf of the Gold Rush Casino I am submitting this letter to voice my concern about proposed changes to this establishment that I feel would be detrimental not only to the many people it provides employment and services for but also to the city of Butte.

Over the years Don Wheeler and the Gold Rush Casino has not only provided excellent service for our senior population, but has given generously back to our community.

I feel by altering this establishment you would be unjustly inconveniencing its many patrons and employees but more importantly you would be threatening the overall well-being of our city, county and state.

Sincerly,

Dave Cantwell

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DATE 3-3-95
HB 537

Jacalyn's

FOR THOSE WHO KNOW AND LOVE GREAT FOOD . . .

3502 Harrison Ave. • Butte, Montana 59701 • (406) 494-3851

RE: Gold Rush Casino
Galena Lounge
W. Galena
Butte, MT 59701

To Whom It May Concern:

I was employed by Dr. Don Wheeler to work at the Gold Rush Casino, beginning in September 1988 as his accountant. At which time the state allowed 40 machines per license. On this pretext, Dr. Wheeler remodeled the Gold Rush to accommodate for the allowed number of machines. During my time with Dr. Wheeler, the law was changed to limit the number of machines per license to 20 machines. Once again, Dr. Wheeler had to adjust his business operation, by acquiring another license and remodeling his business.

Dr. Wheeler has always operated his business in compliance with the current laws. But, again the law has been changed. This change in the law will require a major remodeling expense and down time in his business. Dr. Wheeler has employed between 80 to 100 employees, since 1988 in this business. If he is forced to comply with this law, his work staff most definitely will be affected by the changes.

I hope you will take this into consideration, when reviewing the law and it's effects on small business. Your decision can have a major effect on the continuation of some businesses.

Faithfully yours,

Jacalyn Hanni

THE BRONX LOUNGE
42 W. Broadway
Butte, Montana 59701

To whom it may concern!

Jim + Nan Anaglia of the Bronx Lounge + Supper Club want it to be known, to the Legislators, of Helena to leave the structure of Business alone Don Wheeler operates a good clean wholesome business + employs many people

Gold Rush

He contributes to the city + State + Fed government in employees + taxes

The Uptown Business & the City of Butte feel he is a asset to our Community. Leave this alone

Why can't the legislators leave a good place alone that is trying to make a living instead of being glad

Jim + Nan
Anaglia

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DATE 3-3-95
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February 17, 1995

TO WHOM IT MAY CONCERN:

We the undersigned feel the Gold Rush Casino is a valuable asset to Butte, especially the UPTOWN AREA. MANY people visit the Uptown AREA because of the Gold Rush. Although it is a CASINO, it attracts many people because it offers quality food at Reasonable prices. A large segment of the senior citizen population in Butte frequents the Gold Rush because of its food. We feel the Gold Rush should be allowed to operate as it is.

Sincerely

Owners MALONEY'S Bar
112 N. Main
Butte, Mt.

February 21, 1995
D & G Antiques
16 N. Montana Street
Butte, Montana

TO WHOM IT MAY CONCERN:

First, we are speaking from experience--not heersey.

We have eaten at the Gold Rush since it was opened. Look at the record of Doc Wheeler and the Gold Rush:

1. Very good food -
2. Served by many good emoloyees -
3. Very clean -
4. Food priced right -
5. Pleasant atmosphere -
6. Off-street parking lots -
7. Parking lots well maintained -
8. Uptown accessibility -
9. 24-hour service -
10. Well maintained building -
11. One of the largest payrolls in Butte -
12. The amount of people who come to uptown Butte because of their food -
13. A real asset to Butte -
14. Only one of its kind -

We would hate to see a situation that would cause the Gold Rush to have to delete any of its services.

From those who know,

Guy Palmer

Guy Palmer
D & G Antiques

Walter H. Hinick & Associates
Architecture, Engineering
Interiors, Planning

100 East Broadway
Butte, Montana 59701
406-782-4616

EXHIBIT 9
DATE 3-3-95
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February 20,1995

Montana House of Representatives & Montana Senate
54th Montana State Legislature

**RE: Opposition to nullification of "Grandfathered" Status for the Gold Rush Casino and the Galena Lounge, Butte, Montana**

To Whom It May concern:

The Gold Rush Casino and Galena Lounge, located at 20 West Galena Street in Historic Uptown Butte, play a vital role in the economic and social infrastructure of "The Richest Hill on Earth".

From a historical viewpoint, the Gold Rush remains true to the "Watering Hole" concept of saloon and eatery supporting the needs of the community. The Gold Rush fulfills the need for entertainment and nutrition to the majority of Uptown residents, many of whom cannot travel to the "Flats" for such services.

We as Architects, applaud the efforts made by Dr. Donald O. Wheeler to keep improving the architecture of the Gold Rush and keeping the doors open when other Casinos and Restaurants are continually closing. Dr. Wheeler is to be commended for the large employee payroll which infuses the local economy. Many other Uptown businesses benefit from the Gold Rush contribution to the Urban Revitalization Agency's Tax Increment Financing District, through which Grants and Low Interest Loans are made to other merchants and commercial citizens.

Any throw-back of the "Grandfathered" status which the Gold Rush now has would be a step backward for Uptown Butte. We cannot support legislation that would impose further hardships on Dr. Wheeler and the Gold Rush. Any such action would be perceived as "special interest" inspired and done to single out Dr. Wheeler.

We support the continuation of the Grandfathered Status for the Gold Rush Casino and Galena Lounge.

Sincerely,

**Walter H. Hinick, Architect, Principal**

**Stephen M. Hinick, Architect**

**LeRoy Cottom, Architect**

United States Department of Agriculture | Forest Service | Deerlodge National Forest | Anaconda C.C.C. 1407 Foster Cr. Rd. Anaconda, MT 59711

January 4, 1995

Manager
Gold Rush Casino
20 West Galena
Butte, MT 59701

Dear Manager,

My name is Bill Case and I am the Director of the Anaconda Job Corps Center.

This letter is to express my appreciation to you and your staff. I seems that when a Greyhound bus arrives late at night in Butte, they do not keep the bus station open. Our night staff have told our students to walk over to the Gold Rush and we will pick them up there. With these cold nights, it's really nice to have a warm place for them to wait.

You kindness will not go unappreciated.

Thank you.

WILLIAM J. CASE
Center Director

# SECURITY BANK

EXHIBIT 9
DATE 3-3-95
HB 537

February 17, 1995

TO WHOM IT MAY CONCERN:

It is our understanding that legislation has been proposed that may seriously affect the operation of Gold Rush Casino. In support of maintaining the business as is, we offer the following observations, which are derived from a lengthy business relationship with the Gold Rush Casino and its operators:

- —The business is an important employer in the Butte-Silver Bow community, with about 75 employees at this time.
- —As a successful enterprise, the Gold Rush Casino is a major taxpayer. This is an especially appropriate point considering its location in Uptown Butte, which has an abundance of vacant derelict property contributing little or nothing to the tax base.
- —The location of the business provides convenient entertainment and restaurant service to numerous senior citizens living in the Uptown Butte neighborhoods.
- —The facility is attractive, clean, and an asset to the Butte Community.

In summary, we strongly support the Gold Rush Casino in its current format, and oppose a move to force a change which may diminish its ability to contribute to our economy.

Very truly yours,

Jeff Mortensen
Vice President

JM:jr

MONTANA TECH
Butte, Montana 59701
(406) 496-4101

This letter is being written in support of the Gold Rush Casino located at 22 West Galena in Butte, Montana. The Gold Rush Casino offers many attributes to the Butte Silver Bow community. The Gold Rush Casino is a major attraction in the historic uptown area for the working public, seniors, visiting athletic teams to Tech, and is generally a well-rounded environment for community meetings.

The Gold Rush Casino is a viable asset to uptown Butte, and any legislative changes that would be detrimental to the casino should be discouraged.

With great concern.

Bill Yeagle

Bill Yeagle
Special Projects Director

EXHIBIT 9
DATE 3-3-95
HB 537

68 West Park
Butte, MT 59701
(406) 723-6549
Fax (406) 723-2105

EST. 1902
THOMAS'
BUTTE, MONTANA

511 Main
Deer Lodge, MT 59722
(406) 846-3324

February 17, 1995

To Whom It May Concern,

I am writing this letter on behalf of the Gold Rush Casino and the merchants of uptown Butte. I feel the Gold Rush is a great asset to uptown Butte, the Casino is a great place to eat & a nice relaxing get away for a lot of our senior citizens. The gold Rush is a big draw to tourists visiting historic uptown Butte, which helps traffic to many merchants in the area. I have been to other casinos where the customers' children run wild; I don't run into that at the Gold Rush Casino.

The Gold Rush is a large employer in Butte, giving a great work opportunity for a lot of Tech students. The Casino has also provided a private meeting room for lunch and dinner meetings, which is a great asset for the larger companies in uptown Butte such as MPC, MSE, etc.

The Gold Rush has continually gone out of their way to accommodate the various needs of the community, and I would hate to see any changes affect that.

Sincerely,

Paul Thomas

Paul F. Thomas
Owner & President

February 17, 1995

Members of the 54th Legislative Committee
c/o Montana Legislature
Capital Station
Helena, MT 59620

Re: Gold Rush Casino, Butte, MT

Dear Members:

I am writing in support of the Gold Rush Casino, Butte,MT in their opposition to House Bill 537.

As superintendent of the Butte Area, Western Region of the Montana Power Co., I utilize the Gold Rush Casino and its eating facilities for many company related functions. Because of its convenient location and hours, many of our pre-work committee meetings are held there. Altering the casino in any way would be a detriment to our community and to the people patronizing the Gold Rush.

Sincerely,

Wally Frasz

Wally Frasz, Superintendent
Butte Area Western Region
Montana Power Company

WF\cd

34\ltr11

EXHIBIT 9
DATE 3-3-95
HB 537

February 17, 1995

Representative Joe Quilici
Capitol Station
Helena, Montana 59620

Dear Joe:

I am dropping you a note in the hope that you can provide me with some information as it relates to House Bill No. 537.

I am concerned as to the impact that this might have on some of the establishments here in Butte-Silver Bow, in particular, the Gold Rush Casino and Galena Lounge in Uptown Butte. My concern for the Gold Rush comes from an uncertainty as it relates to its status as I read through the provisions of HB 537. I am uncertain if the Gold Rush would continue to remain an establishment that is grandfathered under existing legislation or if it would have to come into compliance with HB 537. I am asking this assistance from you in determining how this proposed legislation would apply to the Gold Rush because I am quite frankly very concerned about the negative impact that it could have, not only on this establishment, but for all of the Uptown area.

Of singular importance to Butte-Silver Bow, is the fact that the taxes paid by this establishment constitute a significant portion of the video gaming taxes that Butte-Silver Bow receives. I would very much appreciate your looking into this matter for me in attempting to clarify for me both how the Gold Rush stands as it relates to the provisions of this Bill as well as providing me with some direction on how I might seek to ensure that some protection is afforded to this establishment, given the fact it has been in operation in the Uptown area for so long.

I appreciate any assistance you might give me on this matter. If you have any additional questions or concerns, please feel free to contact me.

Sincerely,

Jack Lynch
Chief Executive

**HENNESSEY, JOYCE, McCARTHY, AND WING, P.C.**
Attorneys At Law
35 WEST GRANITE STREET
P.O. BOX H
BUTTE, MONTANA 59703

TELEPHONE (406) 782-1296 (406) 782-1297 (406) 782-7207 FAX (406) 782-1298

WALTER M. HENNESSEY
THOMAS J. JOYCE
ROBERT G. McCARTHY
DAVID J. WING
MAURICE HENNESSEY, Of Counsel

February 16, 1995

Gold Rush Casino, Inc.
20 W. Galena
Butte, MT 59701

Dear Mr. and Mrs. Wheeler:

Our office is writing this letter in support of your business, Gold Rush Casino, Inc. located in uptown Butte. It is our understanding that House Bill 537 will adversely impact on your operation, possibly making it a nonviable financial venture. Such legislation is not only counter-productive to Butte, but to the State of Montana. The Gold Rush has been in business for a number of years now and is an asset, not only to uptown Butte, but to the entire city.

The Gold Rush Casino is not only a casino, but is also a fine eating establishment which provides 24 hour service to the uptown area. It is one of only two restaurant type establishments uptown that is open later in the evening. It is also a fine, clean environment where Senior Citizens can go to enjoy themselves. Everyone in our office has noticed the great number of Seniors which are in your establishment at various times of the day. The quality service that you provide is something other than that provided by a casino, it is more than just a casino as it is a full service restaurant which provides top quality food at reasonable prices.

The Gold Rush also employs a great many people in different capacities, thus, providing employment for the local citizenry and is a tax paying business in Butte-Silver Bow. Any detrimental affect on the Gold Rush Casino could possibly adversely affect the tax base in the uptown area.

Changing the Gold Rush Casino in any way would adversely affect the County and State as a whole. It is our understanding that House Bill 537 would indeed adversely affect the Gold Rush

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HB 537



Casino and we would urge that that legislation would be defeated or amended to allow the Gold Rush Casino to maintain its fine quality service and remain a tax paying member of the Butte business community as well as the State business community.

Very truly yours,

HENNESSEY, JOYCE, MCCARTHY
& WING, P.C.

BY _____
W.M. HENNESSEY

_____
THOMAS J. JOYCE

_____
ROBERT G. MCCARTHY

_____
DAVID J. WING

WMH/sj

To Whom it May Concern

I feel strongly that the Gold Rush Saloon is a vital part of uptown Butte and should be left alone to do business so that it can continue to keep paying the tax revenues that it generates. The gov't has to get out of people's businesses + start letting them run it for themselves

Paul Cote'
Owner Gamers Cafe

EXHIBIT 9
DATE 3-3-95
HB 537

**Superior Gaming Services** 2727 Placer St. Butte, MT 59701 782-8502 or 496-6222

TO WHOM IT MAY CONCERN:

This letter is in response to the current legislation in Helena, that pertains to the COLD RUSH CASINO.

I own a gaming service company that provides service to the GOLD RUSH CASINO on a daily basis and the changes that are proposed for the GOLD RUSH CASINO would affect the way that I conduct business at this establishment. I routinely disassemble the gaming equipment and haul the parts downstairs to repair or clean and blowout the dust, I definitely cannot blow them out upstairs inside the casino. By making the COLD RUSH erect a dividing wall between the two rooms would seriously hinder the quality of the service I provide to the GOLD RUSH CASINO.

As far as I can see this will only cost the GOLD RUSH CASINO an extensive amount of money. This will have a serious effect on his business, and his customers. The GOLD RUSH certainly draws a significant amount of people from Butte and many are senior citizens, the location of the GOLD RUSH CASINO is in the heart of the historic uptown area, and poses no threat to the other casinos in the downtown area because of its original building design. Furthermore, the casino has always maintained a exemplary relationship with the gambling control division by operating a clean and legal casino.

The GOLD RUSH CASINO customers have come to enjoy the benefits of eating on either side of the casino and also playing the live action keno on either side, while they are eating or just simply visiting.

I **ABSOLUTELY** support Doc Wheeler in his effort to keep the GOLD RUSH CASINO the way that it is today so that Doc Wheeler can continue to conduct business as usual.

Sincerely:

Michael Perino

Michael Perino
Superior Gaming Services

Finlen COMPLEX

Broadway & Wyoming Sts.
Butte, Montana 59701
Phone (406) 723-5461

February 16, 1995
Helena, Montana

To the Ladies and Gentlemen of the 54th Legislature:

We understand specific gambling legislation is pending that may seriously effect the operation of the Gold Rush Casino located in Uptown Butte.

We, too, are located in uptown Butte and in fact have business contracts depending on one another which could indirectly effect our business. We both contribute significantly to the tax base of Silver Bow County and the State of Montana. Our Historic Uptown cannot afford to lose any business especially through careless legislation. Any drastic changes in operation of the Gold Rush Casino may simply force them out of business. Certainly priority consideration should be given to establishments like the Gold Rush.

It is our belief that laws are changed for the good of the people. We respectfully ask that any changes now under consideration be weighed carefully. The results could be devastating.

Sincerely yours,

FINLEN COMPLEX, INC.

Frank Taras

Frank Taras, Manager

EXHIBIT 9
DATE 3-3-95
HB 537

Thursday, February 16, 1995

To Whom It Concerns
RE: The Gold Rush Casino
Butte, Montana

Having been a patron of the Gold Rush Casino for the last six years, I would certainly hate to see anything done by the 54th Legislature that would affect this business in particular, or make it hard for them to remain in business. The Gold Rush serves a very important niche in uptown Butte, an area that needs more good businesses and entertainment establishments like the Gold Rush.

The Gold Rush employs a lot of people, uses many services and pays lots of taxes. Why change this? The Gold Rush was one of the first casinos in town and made a commitment to uptown Butte. Other such establishments avoided the uptown area and have all located by the interstate off-ramps or in busier areas of the "flats". Is this good for Butte or Montana? The Gold Rush stands alone uptown and serves as a social center for lots of uptown senior citizens. Don't take that away.

It is my understanding that a person, or persons with conflicting business interests in Butte are behind this effort to exclude the Gold Rush from "Grand Fathering" its operation as it exists. Certainly, members of the 54th Legislature won't fall for such a shallow agenda of personal gain by one of its own members. This effort seems motivated by the greed and jealousy of a few particular individuals. Consider your constituents and the real needs of the uptown community before you act.

The Gold Rush is a well run business. Their food is excellent. Prices reasonable and the service is very good. Far as I know, they pay their taxes and provide stable employment for their employees. There are things that need fixing in Montana, and certainly in Butte. This isn't one of them. I ask for all the loyal customers of the Gold Rush Casino that you leave this establishment as it is.

Thank you for your time and attention to this matter.

Sincerely,

Mel Smith
3454 Wharton
Butte, MT 59701

MINING CITY MERCHANT POLICE INC.
P.O. BOX 3616
BUTTE,MONTANA 59702

February 15,1995

TO: Montana Legislators

My wife and I are residents of Butte,Montana. We are concerned about the plans for the Gold Rush Casino located in Butte,Montana.

We are concerned because the Gold Rush Casino is a asset to Butte, which we do not want to loose. I am concerned that a law you wish to past would put the Casino in danger of closing. The Casino employs approximately 75 employees and is healthy contributor to the tax base of Silver Bow County.The building is also a great attraction to the uptown area.

I have also noticed that the visitors coming to Butte on the bus lines have many times been greatful for the Casino being there. This is especially true when the depot closes at night and they have very few options of what to do while waiting for the next bus.

The Casino is kept in repair and is a major attraction to the uptown district, what a shame to have another building in our uptown area vacant.

Please do not allow anything to happen to this establishment, that has such a great environment to relax and enjoy yourself. This Casino shows our citizens and visitors the true meaning of hospitality the Butte way.

Sincerely Yours,

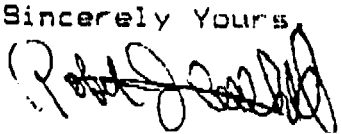

EXHIBIT 9
DATE 3-3-95
HB 537

February 15, 1995

To Whom It May Concern:

I am writing this letter in support of the Gold Rush Casino. Legislative changes that would alter the business functions of the Gold Rush Casino would not be a positive move for Butte.

The Gold Rush employs approximately 75 people in the community. If there is one thing that Butte doesn't need is to loose more jobs. Having that many employees makes the Gold Rush a healthy contributor to the tax base of Silver Bow County and the state of Montana.

The owner of the Gold Rush is a single operator in the city of Butte and should be allowed to continue doing business as it has in the past years. The uptown area in Butte has a very limited amount of restaurants as it is without the threat of loosing 1 of the larger restaurants that we have in this town.

The Gold Rush has been in operation for quite a few years and at this time to create legislation that changes the way they can do business now is not fair.

If legislative changes need to be made they should be aimed at stopping the operators in this state that are openings new Casino's in every town in the state looking to control the Casino industry in the state. This is not true of the Gold Rush owner.

This has been a successful business in our town and to loose that now would not be good for our community. To allow a business to operate for years and then to create legislation that would totally change that is not fair.

Carol J Heim

Owner
Mill Bar/Crazee Carol's Casino
Butte, MT

February 15, 1995

Re: Gold Rush Casino
22 W. Galena
Butte, MT 59701

To Whom It May Concern:

I am writing to support the Gold Rush Casino against current legislation that would force the business to alter or change its physical structure from which it operates now.

The Gold Rush Casino should be able to operate as it has in the past for the following reasons;

- The Gold Rush has always been a valuable asset to the Butte community an a major attraction for historical uptown Butte
- The Casino attracts a wide range of business and community leaders, as well as many senior citizens
- The Gold Rush Casino employs approximately 75 people and is a healthy contributor to the tax base of Butte-Silver Bow and to the state of Montana
- The Casino has always been a "clean" operation and continues to comply with all state laws
- Changing the physical structure would be detrimental to the Gold Rush's reputation of openness, great food, friendly service, and atmosphere
- The Gold Rush has been known as a community service center for uptown Butte, which offers a variety of services, including a 24 hour restaurant

In conclusion, any emphasis to force the Gold Rush Casino to change any physical aspect in which it currently conducts business would negatively affect our county and the state of Montana.

Sincerely,

Natalie R. Taylor, Nickel Annie's and Juke Box Annie's, Butte

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 9-A
DATE 3-3-95
BILL NO. HB 537
(presented by Bill Leuer)

## QUOTES FROM LETTERS RECEIVED

"...being a good draw to uptown, the Gold Rush is definitely an asset to the area."

Gerry Durkin, President
Butte Uptown Association

"...the taxes paid by this establishment (the Gold Rush) constitute a significant portion of the video gaming taxes that Butte-Silver Bow receives."

Jack Lynch, Chief Executive
Butte-Silver Bow

"... the Gold Rush...is an excellent example of the adaptive reuse of a building in an urban area."

Don Peoples, Former Chief Executive
Butte-Silver Bow

"Changing the Gold Rush in any way would adversely affect the county and state as a whole."

Hennessey, Joyce, McCarthy, and Wing, P.C.

"...historic uptown Butte cannot afford to lose any business, especially through careless legislation."

Frank Taras, Manager
Finlan Complex

"...one thing Butte doesn't need is to lose more jobs."

Carol Heim, Owner
Crazee Carol's Casino

"Altering the casino in any way would be a detriment to our community and to the people patronizing the Gold Rush."

Wally Frasz, Superintendent
Butte Area Western Region, MPC

"...the Gold Rush is located in uptown Butte, which has an abundance of vacant, derelict property..."

Jeff Mortensen, Vice President
Security Bank

"...Gold Rush attracts a wide range of business and community leaders, as well as many senior citizens."

Natalie Taylor, Owner
Nickel Annie's and Juke Box Annie's

"The casino is kept in repair and is a major attraction to the uptown district, what a shame to have another building in our uptown area vacant."

Robert J. Cuthill, President
Merchant City Mining Police

"The Gold Rush serves a very important niche in uptown Butte, an area that needs more good businesses and entertainment establishments like the Gold Rush."

Mel Smith
SmithKleinJan

"(The Gold Rush represents) a significant investment of time and money which was based on an understanding of long term use..."

Don Peoples, Former Chief Executive
Butte-Silver Bow

"The Gold Rush is legally licensed and...should be left to operate as they are."

Harry Faroni, Owner
Freeway Tavern

"...the continuity of the Gold Rush "as is" concerns us as well as many others in our community."

Richard E. Hart, Branch President
Security Bank

"The Gold Rush was one of the first casinos in town and made a commitment to uptown Butte, other such establishments avoided the uptown area and have all located by interstate off-ramps or in busier areas of the flats."

Mel Smith
SmithKleinJan

"Many people visit the uptown area because of the Gold Rush."

Pat Maloney, Owner
Maloney's Bar

"They (Gold Rush) contribute generously to our charities and local businesses."

Dennis Henderson, Owner
Winter Garden Lanes

"The Gold Rush is a viable asset to uptown Butte..."

Bill Yeagle, Special Projects Director
Montana Tech

"Any throw-back of the grandfathered status which the Gold Rush now has would be a step backward for uptown Butte."

Walter H. Hinick and Associates

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 10
DATE 3-3-95
BILL NO. HB 537

TESTIMONY - HOUSE BILL 537

Mr. Chairman and Members of the Committee:

For the record, my name is Ellen Engstedt and I represent Don't Gamble With The Future, a statewide organization opposed to the expansion of gambling and in favor of stronger regulation of the gambling currently legal in the state. Our membership is comprised mostly of small business folks and their families.

We support HB 537 in its present form.

The issue of stacking of gambling licenses has produced a great deal of controversy among the members of the gambling industry, particularly those represented by the Montana Tavern Association. We appreciate the courage and the integrity of those operators who have opposed the concept of stacking because they believe, as we do, that the practice of stacking circumvents the intent of Montana's gambling laws.

The issue facing this Committee is whether an individual through means of using family members can divide his establishment into parts with common walls, different exterior entries and legally say those are separate entities and thereby acquire 20 gambling machines for each alleged separate entity.

The reason gambling was legalized in 1985 was to provide a business opportunity to help out the small taverns losing revenue because of stricter DUI laws and less drinking by patrons. Casinos housed in the same building with 60 or 80 machines was not the vision of the 1985 Legislature.

Those individuals in the gambling industry who have protested stacking of liquor licenses in order to get the gambling permits will say this practice is a circumvention of Montana gambling laws and Don't Gamble With The Future agrees wholeheartedly with that protest.

We agree with the section proposed in HB 537 that there should be at least 150 feet between gambling operations that are owned by the same, or nearly the same, parties. We also agree with the consensus amendments that were placed on the bill in the House Business and Labor Committee.

My testimony before the House committee contained our support with ONE RESERVATION. That reservation was the ten-year period allowed those establishments that obtained their licenses prior to September 1, 1994 (now amended to January 1, 1995) to stop the practice of stacking. My membership felt ten years to be an extremely long time for ANYONE to get into compliance with a law that had changed. Laws change every two years and there are a variety of businesses affected by those changes. Sometimes those businesses receive a deadline of the effective date of passage - or July 1st of the legislative year. Those businesses must comply or they would be operating illegally.

I do know that the ten-year timeframe was an agreement made among those in the gambling industry. However, as we all know, once a bill hits the legislative process, it becomes the property of the Legislature. It is the responsibility of the legislators

EXHIBIT 10
DATE 3-3-95
HB 537

to do as they see fit to amend ANY piece of legislation that comes before them.

On the floor of the House of Representatives an amendment passed with a majority of the members voting to lower the ten-year timeframe to five years. Two other proposed amendments to the bill were rejected. The bill then passed as amended 97 to 3.

Don't Gamble With The Future strongly supports HB 537 in its current form and urges your support.

Thank you.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11
DATE 3/3/95
BILL NO. HB 537

March 3, 1995

TESTIMONY BEFORE THE SENATE BUSINESS AND INDUSTRY COMMITTEE
ON HOUSE BILL 537

Mr. Chairman and Members of the Committee:

For the record I am Dave Brown, 3040 Ottawa, Butte, appearing today on behalf of the Restaurant and Lounge Coalition. The Coalition is opposed to House Bill 537 unless it is amended substantially.

In my past legislative service I often found that in attempting to provide a solution to one problem, several more problems were created as an unintentional by-product of the effort. This is most seriously the case with House Bill 537. This legislation made it out of the Legislative Council late in the House, was introduced on a Saturday, a hearing was held in the House Business Committee on Monday and briefly again on Tuesday, executive action was taken on Tuesday, and the bill passed the House on Friday and Saturday. Some of the problems with this legislation were discussed and many were not thought of until after the House had acted on the bill.

The Committee should understand that the practice of stacking or clustering licenses that HB-537 seeks to prevent in the future are legal under existing law. If the legislature in its wisdom believes this activity should stop, then that policy decision is one it has every right to make from this day forward. However, it is unreasonable to expect people that in good faith and under the law invested significant funds in their businesses

business" before the investment is recovered and regardless if you would like to continue to be in that business.

Three amendments would solve our problems with HB-357. Amendment number one is attached and would change the 150 foot requirement to essentially one building can only have an on-premise alcoholic beverages license with twenty video gambling machines. That is the end result the industry wanted when they originally began this discussion.

What are the impacts if the footage requirement is not taken to zero? In all of your Senate districts it is my guess that you have a least one small bar owner who has a family relationship with the owner of another bar on the same block that would fall under the 150 foot limitation in this bill. At least one of those licenses were more than likely granted after January 1, 1985. This family purchase was done to help make a living for a family group and help keep the kids in town with a job and an income. Under House Bill 537 as passed by the House, one of those establishments would have to be sold within five years and that family enterprise would end. That is not right or reasonable nor do I think what was intended with the introduction of this bill.

Let me give you an example. In Dillon, as in most small towns, most, if not all, of the bars are located in a one or two block area. The Rusty Duck sits on the corner of a block and is owned by Tom and Evelyn Lohman. Next to the Rusty Duck is the Moose Bar and then the Longhorn Bar. Next is Papa T's owned by their daughter and son-in-law. They are less than

150 feet apart from exterior wall to exterior wall. One license was purchased in 1982 and the other in 1993. Under this bill as presently written, one or the other of these family owned and operated bars would have to be sold. Neither bar is capable of supporting the whole family.

There are many such family operations in small town Montana that face this same difficulty. I urge you to seriously consider removing the footage requirement.

What does this mean for larger cities with casinos with common ownership that are near each other? It means you will have two places with twenty machines each, businesses side by side. What essentially is the difference in this situation and common owners having several bars or casinos scattered around town about which no one seems to worry.

Amendment number two is attached to my testimony also. It would grandfather all those businesses that legally invested in establishments under current law for as long as the present owners operate and allow for permanent re-sale. One of the worst things that a legislature can do is create an unstable business climate by continually changing the rules. Many of you came here to provide some stability for Montana businesses and I hope that you will continue that effort with this bill.

Amendment number three is also attached to my testimony. This amendment would strike much of what is left of the definition of "commonality of business interests". As currently written this bill would limit lease or rental from the same person or entity. One example amplifies my point. In Butte in the heart of Uptown is the old Metals Bank Building. It is on the National

Preservation list and owned by a local CPA who has no connection to bars or gambling. He is having a difficult time maintaining the building structure which primarily depends on how much rent he receives. On the first floor is a mexican restaurant with an all beverage license. In the sub-basement, street level, is a new 50's and 60's type of restaurant with an all beverage license. The owners of these establishments have no connection to each other but because they lease or rent from the same person, one business would have to move in whatever time frame is established in this legislation. Again, I don't believe this was intended but it does have this significant impact.

I would hope, Mr. Chairman, that given the testimony you hear today, that you would find it appropriate to put this bill in subcommittee or hold off executive action long enough for those interested parties to seek a solution to these problems. The significance of the various amendments on many livelihoods in Montana deserves that attention. I believe that the various parties can come to terms with what needs to be done here and still produce a bill that is reasonable and workable and meets the original intent of the legislation.

I appreciate your time and consideration.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11 A
DATE 3-3-95
BILL NO. HB 537

RESTAURANT AND LOUNGE COALITION - AMENDMENT #1

1. Title, line 5.
   Following: "BEING"
   Strike: "WITHIN 150 FEET OF EACH OTHER"
   Insert: "ON PREMISES HAVING AN EXTERNAL STRUCTURAL CONNECTION OR A COMMON INTERNAL WALL"

2. Page 1, line 10.
   Following: "premises"
   Strike: "within 150 feet of another premises"

3. Page 1, line 12.
   Following: "premises"
   Strike: "are within 150 feet of, or"

4. Page 1, line 13.
   Following: "connection"
   Strike: not amounting to"
   Insert: "or"

5. Page 1, line 16.
   Following: "owners."
   Strike: " A measurement" through "premises." on line 17

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 11 B
DATE 3-3-95
BILL NO. HB 537

RESTAURANT AND LOUNGE COALITION - AMENDMENT #2

1. Page 1, line 19.
   Following: "subsection (1)(a)"
   Strike: "during" through "January 1, 1985." on line 23
   Insert: "and may be sold and re-licensed for an on-premises alcoholic beverages license and re-permitted for video gambling machines allowed on a premises under 23-5-611."

SENATE BUSINESS & INDUSTR
EXHIBIT NO. 11C
DATE 3-3-95
BILL NO. HB 53

RESTAURANT AND LOUNGE COALITION - AMENDMENT #3

1. Page 2, line 12.
   Following: "entity."
   Strike: "(1)" through "OR" on line 15

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 12
DATE 3/3/95
BILL NO. HB 537
(presented by Diane Brown



Desperado Sports Tavern
3101 Russell
Missoula, MT
59801

TO WHOM IT MAY CONCERN:

This letter is to show support for the Lucky Strike to remain "AS IS" as they are an asset to our community in that they are very community minded and support many community events. They are very clean and well managed. They provide employment for Missoula Residents and should be given the opportunity to continue.

THANK YOU

Mark L. Rheinhardt
3-1-95

Road Runner Casino and Lounge
Lolo Shopping Center
Lolo, MT 406-273-2459
59810

TO WHOM IT MAY CONCERN:

This letter is to show support for the Lucky Strike to remain "AS IS". We feel that they are good for the Community. It is a well managed and clean operation and show lots of community support. They provide jobs for Missoula Residents. We feel that they should be allowed to remain an "AS IS" business.

THANK YOU

Owner / President

EXHIBIT 12
DATE 3-3-95
HB 537

*Keno - Poker Machines - Video - Juke Boxes - Pool Tables*

# Century Amusement Co.

P.O. Box 4713 Missoula, Montana 59806 Phone: (406) 549-8408

TO WHOM IT MAY CONCERN:

The purpose is to make our feelings known that the Lucky Strike as a business is an asset to the Missoula Community in that they provide jobs to Missoula residents dents. It is a well managed and very clean operation. They have a positive impact on our community and should be alowed to remain "AS IS".

THANK YOU

Jack Rossetto

OWNER / PARTNER

Pub Casino
2110 Brooks
Missoula, MT
59801

TO WHOM IT MAY CONCERN:

This letter is written to let you know that the Lucky Strike is an asset to our community. They employ Missoula Residents and provide income to our community in the form of taxes. It is well managed and a clean operation. It should be allowed to continue "AS IS".

THANK YOU

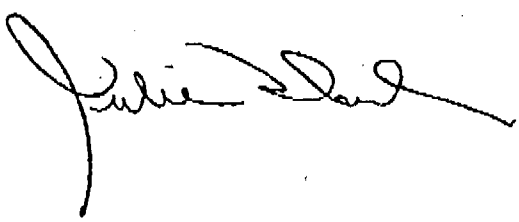

EXHIBIT 12
DATE 3-3-95
HB 537

FIRST SECURITY BANK of Missoula

March 1, 1995

RE: Lucky Strike Casino and Restaurant

To Whom It May Concern:

First Security Bank of Missoula feels that the above referenced business is an asset to Missoula. In addition, they provide employment to many people, which in turn helps the economy in Missoula. The Lucky Strike provides good service and has been well managed and maintained. We request that the business stay as is, and continue to be a benefit to the city.

Thank you for your consideration.

Sincerely,

Jack R. Henry
Vice President

JRH/gm

Paradise Falls

RESTAURANT • LOUNGE • CASINO

February 28, 1995

RE: Lucky Strike Casino

To Whom it May Concern:
As a partner in Paradise Falls Restaurant, Lounge and Casino, I would like to express my feelings that the Lucky Strike is a contributing benefit to the Missoula area. It has a well regarded reputation as a professionally run business by both it's employees and customers. Therefore, I believe that the Lucky Strike should continue to run " as is".

If I can answer any questions or help in your decision in any way, please do not hesitate to call me.

Thank you for your consideration.

Tom McLaughlin

Tom McLaughlin
Paradise Falls

EXHIBIT 12
DATE 3-3-95
HB 537

HEIDELHAUS/RED BARON CASINO
2920 BROOKS
MISSOULA, MONTANA 59801
(406) 543-3200
FAX: (406) 549-2301

March 1, 1995

RE: House Bill 537

To Whom It May Concern:

With regards to the above referenced Bill, I would like to be on record as unequivocally opposed to this unjust and shortsighted attempt to control and remove the more progressive gambling establishment operators.

As a neighbor and competitor of the Lucky Strike complex, I have not been at any disadvantage due to their current "stacked" premises. They are fair and aggressive competitors for the environment dollar, but so am I. Those who legislate against a legitimate competitor must obviously prefer a restrictive law to free market practices. If this is the case, we should legislate Wal Mart out of business so our neighborhood hardware store may better compete.

Second, every "stacked" premises in the state was built and approved under the current law. To legislate lawful establishments out of business undermines all gaming operators. Gambling premises continue to sell at a discount due to the uncertainty of the legislative process, and situations such as proposed House Bill 537 reduce the future marketability of all premises.

To continue to legitimize the industry we must move forward with legislation, and not pass regressive legislation which removes a going concern and lawful enterprise. Thank you for your consideration.

Sincerely,

HEIDELHAUS/RED BARON CASINO

J. Grant Lincoln, Owner

JGL/wfh

cc: Mr. Mark Staples
Mr. Doug Hutchins

835 E. Broadway
Missoula, MT 59802

Telephone:
(406) 721-1212

TO WHOM IT MAY CONCERN:

The Lucky Strike Casino has been very good to Missoula and very supportive of the Missoula Community. I know Lucky Strike Casino has helped every fund-raising event and leads in funding drives for the YMCA, Big Brothers and Sisters and the University of Montana. They have a good reputation and should be allowed to continue to do business as they presently are at this time.

Owner, Press Box Casino

EXHIBIT 12
DATE 3-3-95
HB 537



Mustang Sally's Bar & Grille
2006 Ernest Ave.
Missoula, Montana 59801

February 28, 1995

SUBJECT: Lucky Strike Casino Missoula, Montana. License Stacking.

To Whom It May Concern:

The purpose of this letter is to make my feelings known in regards to the subject of "license stacking". I believe that if any changes in "license stacking" are made, that they should apply equally to everyone.

Thank you for your consideration.

Sincerely,

Bruce M. Fowler

ref:

To: Whom it may concern,

It is our feeling that the Lucky Strike Casino is bussiness that is an asset to our community. They provide employment to many local citizens. It is a well maintained, clean well managed and should be allowed to remain AS IS because they have a positive impact on our community.

David McClay
Harry Davids

EXHIBIT 12
DATE 3-3-95
HB 537

NORWEST BANKS

*Norwest Bank Montana, N.A.*
*Missoula South Office*
*1800 Russell*
*Post Office Box 3298*
*Missoula, Montana 59806-3298*
*406/543-8353*
*Fax: 406/543-0396*

February 22, 1995

To Whom It May Concern:

RE: Lucky Strike Casino and Restaurant
Missoula, MT

The above referenced Missoula business is definitely an asset to the Missoula community. The business provides a positive economic impact to the Missoula market. This business establishment is well managed and provides employment for a considerable number of Missoula residents. The Lucky Strike Casino and Restaurant should be allowed to operate as they have in the past with their business operation.

Thank you for your consideration.

Sincerely,

Michael S. Palmer
Senior Vice President and
Business Banking Manager

MSP/bjg

Subject.. Lucky Strike Casino & Restaurant
Msla. MT 59801

To Whom it may concern.. 21795
The pourpose of this letter is to make known our feelings that Subject buisness is an asset to the missoula comunity, and should be alowed to continue operating "AS IS." Subject buisness is well managed, clean, orderly and employes many missoula citizens.
Thank you for your concideration.

Sincerely,

Marsha R. Touchette
Elbow Room - MTA Marsha R. Touchette

Scott A. Tempel
Scott A Tempel

Gerald Zeeg
Gerald Zeeg

FARMERS INSURANCE GROUP OF COMPANIES

EXHIBIT 12
DATE 3-3-95
HB 537

February 17, 1995

Randy Morrow Agency
FARMERS INSURANCE GROUP
2438 W. Central
Missoula, MT 59802
(406) 728-2334

To whom it may concern:

The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "As Is". Subject business is well-managed, clean, orderly and employs many Missoula citizens.

Sincerely,

Randall A. Morrow

Paul W Mercer

Jodi Whalen

Speak Easy - MTA

February 17, 1995

SUBJECT: Lucky Strike Casino-Restaurant - Missoula, Montana.

To Whom It May Concern:

The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "AS IS". Subject business is well-managed, clean, orderly and employs many Missoula citizens.

Thank you for your consideration.

Sincerely,

Jerry L Gall

Jerry L. Gall

Margaret R Gall

Margaret R Gall

EXHIBIT 12
DATE 3-3-95
HB 537

FROM : JACK C. SEITZ - REAL ESTATE PHONE NO. : 406 251 2789

# Jack C. Seitz

REAL ESTATE BROKER

Office/Fax (406) 251-2789 • Mobile (406) 721-8007 2731 Ancabide Lane P.O. Box 4802 Missoula, Montana 59806-4802

*February 17, 1995*

*SUBJECT: Lucky Strike Casino-Restaurant - Missoula, Montana.*

*To Whom It May Concern:*

*The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "AS IS". Subject business is well-managed, clean, orderly and employs many Missoula citizens.*

*Thank you for your consideration.*

*Sincerely,*

Jack C. Seitz

Judy M. Seitz

**HARRINGTON SURGICAL SUPPLY, INC.**
HOME HEALTH & MEDICAL SUPPLIES — SALES & RENTAL

1208 West Kent • Missoula, Montana 59801 • (406) 721-8468 • 1-800-358-8468

February 17, 1995

SUBJECT: Lucky Strike Casino-Restaurant - Missoula, Montana.

To Whom It May Concern:

The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "AS IS". Subject business is well-managed, clean, orderly and employs many Missoula citizens.

Thank you for your consideration.

Sincerely,

Tom Harrington

EXHIBIT 12
DATE 3-3-95
HB 537

February 17, 1995

TO WHOM IT MAY CONCERN:

We are writing this letter to make our feelings about the Lucky Strike Casino-Restaurant known. We feel the business is an asset to the Missoula community. It is well ran, clean and employs many people here in Missoula.We feel it should be allowed to continue operating "as is".

Jaunita Round

Don Round

DawnMarie Freeman

# Sheehan-Majestic, Inc.

1121 E. Broadway • P.O. Box 7248 • Missoula, Montana 59807 • 406/543-5100

February 23,1995

Re: LUCKY STRIKE CASINO-RESTAURANT

To: Whom it may concern;

It is our feeling that the above mentioned business is a very strong asset to the Missoula Community. They provide employment to many local citizens. They purchase all of their supplies and products from locally owned businesses, which in turn employs many Missoula People. It is a well maintained, managed, and a very clean operation. We wish to make it known in this letter that this business should remain in operation "**AS IS**" to continue to have a positive impact on our community.

**THANK YOU FOR YOUR CONSIDERATION.**

Sincerely,

Stan Feist - Pres

Steve Jensen

Rick Chatkiewicz

EXHIBIT 12
DATE 3-3-95
HB 537

# JGL Distributing, Inc.

BOX 2758 • MISSOULA • MONTANA 59806
FAX (406) 728-5059 • TOLL FREE 1-800-398-0330
(406) 728-7736

February 17, 1995

SUBJECT: Lucky Strike Casino-Restaurant- Missoula, Montana

To Whom It May Concern:

The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "AS IS." Subject business is well-managed, clean, orderly and employs many Missoula citizens.

Thank you for your consideration.

Sincerely,

MONTANA PRINTING CO.

PHONE: (406) 728-5200

1629 SOUTH AVE. WEST

MISSOULA, MONTANA 59801

February 17, 1995

SUBJECT: Lucky Strike Casino-Restaurant - Missoula, Montana.

To Whom It May Concern:

The purpose of this letter is to make known our feelings that subject business is an asset to the Missoula community and should be allowed to continue operating "AS IS". Subject business is well managed, clean, orderly and employs many Missoula citizens.

Thank you for your consideration.

Sincerely,

W. R. Thibodeau
W. R. Thibodeau

Lynn Gildow

JoAnne Thibodeau
JoAnne Thibodeau

Curt Parema

Red Hess

Shirley Smith

JOKER'S WILD
4829 N. RESERVE
MISSOULA, MT 59802

ASINO • RESTAURANT • LOUNGE
Phone (406) 549-4403

EXHIBIT 12
DATE 3-3-95
HB 537

FEBRUARY 9,1995

RE: LUCKY STRIKE
CASINO&RESTAURANT

TO WHOM IT MAY CONCERN:

WE WOULD LIKE TO LET YOU KNOW, THAT WE FEEL "THE LUCKY STRIKE" IS AN ASSET TO THE COMMUNITY, AND THEY SHOULD BE ABLE TO CONTINUE THEIR OPERATION AS IS. "THE LUCKY STRIKE IS A CLEAN,ORDERLY,AND WELL-MANAGED BUSINESS WHICH EMPLOYS MANY MISSOULIANS. THANK YOU FOR YOUR CONSIDERATION.

Darinda J Williams

DARINDA J. WILLIAMS

Mike Williams

MIKE WILLIAMS

Richard H. Williams

RICHARD H. WILLIAMS

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 13
DATE 3/3/95
BILL NO. HB 537
(Presented by Dave Brown)

Harrington's
TV • APPLIANCES
FLOOR & WINDOW COVERINGS

2/28/95

To Whom it May Concern:

I would like to take a moment of your time to express our views on some current legislation pending before the State of Montana Legislature . The current legislature seems to be bent on predatory legislation against Casino's in general and in particular the Gold Rush Casino and others similarly situated . I do not understand the reasoning for this attempt to handcuff small business in Montana that is doing more than it's fair share to help the economy in Montana . These Casino's contribute in a major way to the coffers of Montana . I am familiar with the Gold Rush Casino in Butte, Montana and I know that they employ around seventy-five people ; they are a positive contributor to the taxbase in Silver Bow County and they provide a welcome recluse in uptown Butte. When laws are enacted to reduce the effectiveness or reduce the level of service that a business like this can provide, Montanan's suffer. As legislation continues to strangle small business, employment is reduced, the customer is inconvenienced, the tax collection reduce and the incentive for the small business owner to remain in business is eliminated.

Montana has embraced gambling in a limited form ; this has proven to be an economic windfall for the State. However, our elected representative's seem to find it necessary to continually harass this industry by changing the rules under which they operate on a frequent basis. The number of entrances into these facilities are governed by building and fire codes, that are designed for the safety of Montanan's and their guests. I see no merit in requiring more doors and limited accessibility just because there are gaming machines on the premise. The number of machines that can be in one building should be determined by the successfulness of the operator of the establishment. If you are not a good upright successful business person no matter how many machines you have, you will not succeed because the consuming public is your master.

We would encourage anyone who can influence the decisions of the 1995 Montana Legislature , to request that they abandon any legislation that is leveled at the gaming industry in Montana . In particular the legislation that limits the number of machines in one establishment and requires separate entrances for those facilities with over a given number of machines. Please remember, we enjoy gambling in Montana and in Butte particularly. Continued harassment of these firms will kill the proverbial Golden Goose.

Thank you.

Gary D. Harrington

Mary A. Harrington

Capri
MOTEL

Gold Rush Casino
22 W Galena
Butte, MT 59701

Don Wheeler, Manager

To whom it may concern:

We at the Capri Motel use the services of the Gold Rush Casino on a regular basis year around. Our guests are very pleased with the services offered there. The food is excellent and the atmosphere is pleasant. There is ample seating and seclusion from the bar and casino activities if one is not interested. The menu is of such a wide price range and choice that it seems to meet everyone's tastes. They are always well organized and pleasant.

I can not imagine why you would want changes. It was one of the best run restaurants in Butte.

Thank you,

Capri Motel Staff

220 North Wyoming • Butte, MT 59701
(406) 723-4391 • 1-800-342-2774

EXHIBIT 13
DATE 3-3-95
HB 537

1-11 March 19

To Whom It May Concern:

As fellow business owners, we would like to see the Gold Rush continue to operate in the same capacity as it has for the last several years.

This establishment is certainly an asset to the uptown community as it contributes greatly to the economy through taxes and the employment of many people.

The Gold Rush has the distinction of being the first Restaurant, Lounge & Casino in Butte.

Sincerely

Marie Hansen
Ponderosa Club
3544 Harrison
Butte MT

# BUTTE UPTOWN ASSOCIATION

February 14, 1995

Dave Brown
1118 Livingston
Helena, MT 59601

Dear Dave:

The Board of Directors of the Butte Uptown Association extend their support of the Gold Rush Casino in Butte. We understand that House Bill 537, although positive overall, would negatively impact how the Gold Rush functions. Employing 75 people and being a good draw to Uptown, the Gold Rush is definitely an asset to the area. We understand that the Gold Rush presently is grandfathered to operate as it is, so either an extension or allowance for it to function as is without structural changes are both acceptable solutions.

Thank you for expressing our views to the Legislative Committee.

Sincerely,

Gerry Durkin
President

201 West Granite St. • Butte, Montana 59701 • (406) 723-5042

PRESERVATION • PROMOTION • IMPROVEMENT

EXHIBIT 13
DATE 3-3-95
HB 537

March 1, 1995

To Whom It May Concern:

I am writing this letter regarding the Gold Rush Casino. I own a business in the same general area of uptown Butte. The Gold Rush owners, managers, and staff are a credit to this community. The Gold Rush employes about 75 people with a payroll in excess of one million dollars. My personal opinion is that rules and regulations that this business has been allowed to operate should be grandfathered and any new regulation, of which I feel there are too many, should be waived for this business.

Bob Holman

Bob Holman
Owner
Shanty Bar
20 South Montana
Butte, MT 59701

SECURITY BANK FSB

March 1, 1995

Montana Legislature, 95'
Attn: Senate Business & Industry Committee

Dear Committee Members:

At the time the Gold Rush Casino came into being, the law provided that a licensee could have 45 gaming machines.

As planned, the Gold Rush Casino was to have 45 machines, so its extensive physical plant (formerly the home of the Black Angus Restaurant) at 20 West Galena, could be fully utilized. The Gold Rush Casino was to have a long life and extend to the time Don Wheeler's sons came into the business.

It was with this in mind that we committed ourselves to a long-term loan for a very substantial amount. Our bank and our borrower acted in good faith and thought Montana Law would remain consistent.

Like Don, we were relying on what the law was at the inception of the Gold Rush. We were relying on the Gold Rush's continuity as a gaming facility with 45 machines. To limit or impair in any way the Gold Rush's operation might very well impact us as payments on our loan to the Gold Rush are ongoing.

As you can see, the continuity of the Gold Rush "as is" concerns us as well as many others in our community. Thank you for giving this your consideration.

Respectfully Submitted,

Richard E. Hart

Richard E. Hart
Branch President
Security Bank, FSB

REH/**bls**

EQUAL HOUSING LENDER

EXHIBIT 13
DATE 3-3-95
HB 537

**Joker's Wild**
Family Restaurant
Lounge & Casino

March 02, 1995

To Whom It May Concern:

We would like to express our opinion regarding the Gold Rush Casino, that, the business is no threat to us as a casino owner in this community.

We would like to see the business continue as is. It would be benificial to this community and also to the people .

Thank you for your consideration,

Jack E. Houk
JACK E. HOUK

Lucille C. Houk
LUCILLE C. HOUK

*Don Peoples*
3440 St. Ann
Butte, Montana 59701

February 22, 1995

Montana House of Representatives and Montana Senate
54th Montana State Legislature
Capitol Station
Helena, MT 59620

RE: Opposition to nullification of "Grandfathered" status for the Gold Rush Casino and the Galena Lounge, Butte, MT

To Whom it May Concern:

I am concerned about possible legislation that would affect the "Grandfathered" status that the Gold Rush Casino and Galena Lounge now operates under. I oppose any legislation that would impose hardships on that operation.

The Gold Rush Casino and Galena Lounge is located in historic uptown Butte and is an excellent example of the adaptive reuse of a building in an urban area. The facility at one time was a car dealership and later became an abandoned building. A series of developments converted the building into a restaurant, but it was not until 1987 when Dr. Don Wheeler purchased the facility and converted it into the Gold Rush Casino and Galena Lounge, that it became a successful business. Dr. Wheeler should be applauded for his efforts to not only improve the condition of the building, but preserve its historical significance. The Gold Rush Casino and Galena Lounge provides employment for 75 people and also provides excellent food service in the heart of the uptown business district.

Given the significant investment of time and money which was based on an understanding of long term use, I would consider it unwise to alter the "Grandfathered" status under which the facility operates. I would consider any effort to remove the "Grandfathered" status of the Gold Rush Casino and Galena Lounge to be detrimental to the community, and especially urban development efforts of Butte's central business district.

Sincerely,

Donald R. Peoples

RILEY'S MEATS, INC.

EXHIBIT 13
DATE 3-3-95
HB 537

February 22, 1995

To Whom It Concerns
RE: The Gold Rush Casino
Butte, Montana

We have been doing business with the Gold Rush Casino and have been eating there since its opening in 1987. It is a well established business that has been an asset to Butte and the Uptown area. To legislate new rules and regulations as to how they should do business is unfair and unreasonable. The people of the community enjoy this establishment the way it is or it would not today be one of the most frequented casino and dining facilities in Butte.

We feel that by providing our community with a good, reasonable eating place, stable employment, paying taxes and supporting the uptown they have earned the right to continue operating their business the same as they have for the last eight years.

If the people of the community are content with the Gold Rush as it is, the legislature should respect their wishes. The legislature has more important things to deal with than trying to fix things that aren't broke.

The Gold Rush is an important asset to Butte. Don't destroy it with restrictions that may cause it to close its doors like so many other businesses. Our community needs businesses that succeed and the Gold Rush Casino is a success as it is.

Thank you for your time.

Sincerely,

Bart Riley

Dan Riley

LUCKY STRIKE CASINO

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 14
DATE 2-3-95
BILL NO. HB 537

Located On The 93 Strip At The Corner Of Washburn & Dearborn

February 17, 1995

TO WHOM IT MAY CONCERN:

We as customers would like to let you know that we feel "THE LUCKY STRIKE" is an asset to our community and would like to see their operation remain as it is because we enjoy this establishment. It is well run and it employs many local residents and is an asset to our community.

THANK YOU,

PATRONS OF THE LUCKY STRIKE

**Exhibit 14 is a petition which includes 13 pages of signatures. The original is stored at the Historical Society at 225 N. Roberts Street, Helena, MT 59620-1201. Phone # - 444-2694.**

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 15
DATE 3-3-95
BILL NO. HB 537
(Presented by Bill Schrupp)

**CNJ DISTRIBUTING CORP.**
P.O. Box 20878
Billings, Montana 59104
406-248-8728

TO: SENATE COMMITTEE ON BUSINESS & INDUSTRY

RE: HB 537

I would ask the Committee to reject HB 537 as a bill which restricts business and does nothing to help Gambling Control in their efforts to determine the legal standing of an applicant for a gaming license.

I would be remiss if I did not make mention of the fact that the Legislature has already addressed this matter when they passed 23-5-117. Gaming law 23-5-117 and corresponding Administrative Rule (23-16-505) make clear that the Legislature and Gaming Control were aware of "---establishments----within 150 ft. of each other." They were aware of the facts and clearly defined how such premises may be established.

Relying on these laws and rules, a number of businessmen in Montana invested in "---establishments---within 150 ft. of each other." Their investment is considerable and the legality of their establishments cannot be questioned. ( The license applications for these establishments were investigated by both Liquor and Gambling Control before licenses were issued and the establishments were allowed to begin operation) This bill would deprive these businessmen of that investment.

I understand that the proponents of HB 537 will say that the businessmen affected can sell their investment at the end of the "sunset" period. However, in truth what they will have to sell is only assets, not a business. The difference here is the same as the difference between a bull and a steer. The difference in value between a bull and a steer is obvious and the sale price will reflect that. When you sell a bull, you sell production. When you sell a steer, you sell meat. What HB 537 does is tell these businessmen; "You've invested in a bull, but in 5 years you'll have a steer for sale."

Were this a criminal law it would be considered an "ex post facto" law and therefore be unconstitutional. In effect, while legal, HB 537 accomplishes the same thing as an "ex post facto" law. ( At least it seems so to this layman.) This bill says that businessmen invested in a legal enterprise, but the law would change and what they did would no longer be legal. Just as an act committed before passage of a criminal law cannot be prosecuted, I believe that investments made legally should be allowed to continue when the law changes.

Again, I believe this to be a poorly conceived and written bill and ask you to reject it.

Respectfully submitted,

William T. Schrup
Director of Operations
CNJ Distributing Corp.

DATE March 3 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 527 - 537 Rep Lars
HB 559 Rep Menahan

< ■ > PLEASE PRINT < ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|---|---|---|---|---|
| Don Wheeler | Gold Rush. | With Amend 537 | ✓ | |
| Gordian E. Kiedrowski | Riverboat Casino | 527 537 | ✓ | ✓ |
| LARRY AKEY | MT COIN MACHINE OPERATORS ASSOC | 537 | AMEND | |
| Jerry Driscoll | Lucky Strike Casino Gold Rush Casino | 537 | ✓ | |
| Jerry Driscoll | Associated Vendors of Montana | 537 amend | | |
| Bill Schultz | Doc & Eddy's | 537 | ✓ | ✓ |
| Barbara Morris | Jorgensons Restaurant & Lounge | 527 537 | ✓ ✓ | |
| Steve Morris | Jorgensons Rest & Lounge | 527 537 | ✓ ✓ | |
| MIKE CETRARO | TELETO INC - VILLAGE INN PIZZA PIZZA - | 527 537 | ✓ ● | ✓ |
| DENNIS CASEY | GIA | 537 | | ✓ |
| LARRY AKEY | VIDEO LOTTERY TECHNOLOGY | 527 | INFO ONLY | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Closing by Sponsor:

**REP. EWER** reported **HB 428** had three components: (1) provided conformance to Riegle-Neal; (2) provided consumers the option of using debit cards; and (3) provided an option for rules. He referred to Page 5 and stated the bill had language on branching which was carefully crafted by all parties. **REP. EWER** suggested careful and close work be done with the people who crafted the bill before any changes be proposed.

## EXECUTIVE ACTION ON HOUSE BILL 475

Motion: **SEN. WILLIAM CRISMORE MOVED HB 475 BE CONCURRED IN.**

Discussion: **SEN. EMERSON** asked if it was proper to issue the interest money to nonprofit charitable organizations, or should it go back to the investors. **SEN. MILLER** said since it would be only $5-$10 per investor, it would cost the banks more than that to issue the check, i.e. the only way it would be cost effective would be to pool the money and issue one check to charity, etc. **SEN. CRISMORE** agreed with **SEN. MILLER'S** answer.

Vote: Motion that **HB 475 BE CONCURRED IN PASSED UNANIMOUSLY** by voice vote.

*{Tape: 1; Side: B}*

## EXECUTIVE ACTION ON HOUSE BILL 537

Motion: **SEN. STEVE BENEDICT MOVED TO ADOPT AMENDMENTS, EXHIBIT #1.**

Discussion: **Mark Staples** explained the amendments as per **EXHIBIT #1**, and talked about the family in Dillon whose wife owned a place while he purchased a place across the alley, 20 feet away. He stated the gentleman had not yet applied for his license because the paperwork was still being done; however, it was opined the license should be included as if it were already in place, with the contract valid date as January 24, 1995. **Mr. Staples** referred to Amendment #9 and professed that was the reason for changing the date to February 1, 1995.

**Mr. Staples** said there was another family in Dillon where the mother and son-in-law had one place, while two doors down (not 150 feet away) the son-in-law and daughter had another place. He suggested the mother could be on one license while the son-in-law could be on another because they were not related. He commented that perhaps an amendment could be drawn up which would say

"businesses which are an historic business district in a community of 5,000 or less are exempt."

**SEN. SPRAGUE** asked if right of survivorship would handle the above problem. **Mr. Staples** said it would.

**SEN. GARY FORRESTER** asked if the constituents of **SEN. CHARLES "CHUCK" SWYSGOOD** were taken care of with the amendments. **SEN. SWYSGOOD** said the "across the alley" problem was, but a bigger one was the grandfathering of 10 years, because it could be impossible to pay it off in 10 years in a small town.

**SEN. BENEDICT** wondered if **HB 537** was worth keeping because of the small problems which kept surfacing; however, if it passed, the people who had these problems would at least have 10 years. **SEN. SWYSGOOD** said his point was to protect people who had made substantial investments under current law, but because of **HB 537**, would have a negative economic effect.

**SEN. BILL WILSON** asked if the number of grandfather years should be 25. **SEN. SWYSGOOD** thought the extension would be better than ten years.

**SEN. SPRAGUE** said a lot of effort went into **HB 537**, and the letters he received indicated people would be offended either way.

**SEN. BENEDICT** said he had gotten form letters (all from one place), in which the senders had not even bothered to change the wording.

**SEN. EMERSON** asked if the original intent of **HB 537** was to correct the stacking already in place, or was it to keep it from spreading. **Mark Staples** said it was both.

Vote: Motion **TO ADOPT AMENDMENTS AS PER EXHIBIT #1 CARRIED UNANIMOUSLY** by voice vote.

Motion: **SEN. STEVE BENEDICT MOVED TO ADOPT AMENDMENTS hb053701.ajm, EXHIBIT #2.**

Discussion: **SEN. TERRY KLAMPE** said he spoke against the amendments because the people had gotten their chance.

**SEN. WILSON** asked if **Dave Brown** would comment on the amendments and he did so, saying it added five years to the two places who had stacked licenses before 1991.

**SEN. SPRAGUE** asked if it was a problem that the sponsor did not agree to the amendments. **Mr. Brown** conveyed letters from Butte indicated a desire for fair treatment, but no letters came from Missoula.

**SEN. KLAMPE** asked if **REP. LARSON** had an opinion. **REP. LARSON** alleged the stackers bent the rules and they agreed to the principal of a 10-year grandfather.

*{Tape: 2; Side: A}*

Vote: Motion **TO ADOPT AMENDMENTS hb053701.ajm, EXHIBIT #2, FAILED 5-4** on roll call vote **(#1)**.

Motion: **SEN. STEVE BENEDICT MOVED HB 537 AS AMENDED BE CONCURRED IN.**

Discussion: **SEN. EMERSON** said 10 years was not enough time; in fact, it was his opinion the time should be extended to "until the business moved from the building."

**SEN. CRISMORE** said **HB 537** was a game because by the time the next legislature met, someone would have figured a way around the law.

**SEN. EMERSON** said even though stacking stretched the rules, it did not break the law. He said it would be very difficult to consider the intent of the law, rather than the law itself, every time an action occurred.

**SEN. KLAMPE** said the majority of the people, including the two people, in the gaming industry knew they should not be stacking.

Vote: The motion **HB 537 AS AMENDED BE CONCURRED IN PASSED 8-1** by voice vote, with **SEN. WILSON** voting **"NO"**.

# SENATE STANDING COMMITTEE REPORT


March 9, 1995

MR. PRESIDENT:
We, your committee on Business and Industry having had under consideration HB 537 (third reading copy -- blue), respectfully report that HB 537 be amended as follows and as so amended be concurred in.

Signed: John Hertel
Senator John R. Hertel, Chair

That such amendments read:

1. Title, lines 4 and 5.
Strike: "A" on line 4 through "INTERESTS" on line 5
Insert: "ONE OR MORE COMMON OWNERS"

2. Page 1, line 19.
Strike: "OR"
Insert: ","
Following: "for"
Insert: "or the transfer of which was validly contracted for"
Strike: "JANUARY 1"
Insert: "February 1"

3. Page 1, line 20.
Strike: "5-YEAR"
Insert: "10-year"

4. Page 2, line 14.
Following: "agreement"
Insert: "involving real property"
Following: "except"
Insert: ": (A)

5. Page 2, line 15.
Following: "businesses"
Insert: "; or (B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees if there is no other common ownership between any of the licensees"

6. Page 2, line 17.
Following: "provides"
Strike: "or guarantees"

7. Page 2, line 18.
Following: "financing for"

Amd. Coord.
Sec. of Senate

Senator Carrying Bill

Strike: "the" through "costs."
Insert: ": (A) the purchase of the liquor license;
(B) the purchase of the premises; or
(C) operating expenses of more than $25,000, except for expenses allowed under 23-5-130."

8. Page 2, line 29.
Following: "loan"
Insert: ", except a loan guaranteed by a route operator who would not otherwise be considered a common owner"

-END-

MONTANA SENATE
1995 LEGISLATURE
BUSINESS AND INDUSTRY COMMITTEE
ROLL CALL VOTE

DATE 3-9-95 BILL NO. HB 537 NUMBER 1

MOTION:

favor amend. HB 053701. 2jm

failed 5-4

| NAME | AYE | NO |
|---|---|---|
| STEVE BENEDICT, VICE CHAIRMAN | ✓ | |
| WILLIAM CRISMORE | | ✓ |
| CASEY EMERSON | ✓ | |
| GARY FORRESTER | | ✓ |
| TERRY KLAMPE | | ✓ |
| KEN MILLER (proxy) | | ✓ |
| MIKE SPRAGUE | ✓ | |
| BILL WILSON | ✓ | |
| JOHN HERTEL, CHAIRMAN | | ✓ |
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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 1
DATE 3-7-95
BILL NO. HB 537

**AMENDMENTS TO HOUSE BILL 537**
Third Reading Copy, As Amended

Submitted to the Senate Business and Industry Committee
at the request of Representative Don Larson
March 6, 1995

1. Title, line 4 and 5.
Strike: "A COMMONALITY OF INTERESTS"
Insert: "ONE OR MORE COMMON OWNERS"

2. Page 2, line 14.
Following: "agreement"
Insert: "involving real property"

3. Page 2, line 17.
Following: "provides"
Strike: "or guarantees"

4. Page 2, line 17.
Following: "financing for"
Strike remainder of line 18.
Insert: ": (A) the purchase of the liquor license;
(B) the purchase of the premises; or
(C) operating expenses, except for expenses allowed under 23-5-130, of more than $25,000."

5. Page 2, line 29.
Following: "loan"
Insert: ", except a loan guaranteed by a route operator who would not otherwise be considered a common owner"

6. Page 2, line 14.
Following: "except"
Insert: ": (A)"

7. Page 2, line 15.
Following: "businesses"
Insert: "; or
(B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees, if there is no other common ownership between any of the licensees"

Third Reading Copy, As Amended

Submitted to the Senate Business and Industry Committee
at the request of Representative Don Larson
March 6, 1995

8. Page 1, line 20.
Following: "during the"
Strike: "5 year"
Insert: "10 year"

9. Page 1, line 19.
Following: "granted"
Strike: "or"
Insert: ","
Following: "applied for"
Insert: ", or the transfer of which was validly contracted for"
Following: "prior to"
Strike: "January 1, 1995"
Insert: "February 1, 1995"

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3-9-95
BILL NO. HB 537

Amendments to House Bill No. 537
First Reading Copy

Requested by Rep. Cocchiarella
For the Committee on Business and Labor

Prepared by John MacMaster
February 13, 1995

1. Title, line 6.
Following: "OTHER"
Insert: "; EXTENDING FOR FIVE YEARS THE RIGHT TO CONTINUE A SECOND OPERATOR'S LICENSE FOR A PREMISES SUBJECT TO CURRENT ADJACENT PREMISES REQUIREMENTS; AND AMENDING SECTION 23-5-117, MCA"

2. Page 3, line 1.
Following: page 2
Insert: "**Section 2.** Section 23-5-117, MCA, is amended to read:
**"23-5-117. Premises approval.** (1) Except as provided in subsection (4), the department may approve a premises for issuance of an operator's license if the premises meets the requirements contained in subsections (2) and (3).
(2) The premises must:
(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;
(b) have a unique address assigned by the local government in which the premises is located; and
(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued.
(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling and may not contain an internal entrance through which public access is allowed.
(4) A second operator's license may be issued or renewed until June 30, ~~1996~~ 2001, for a person operating a gambling activity on a premises that did not meet the requirements of subsections (2) and (3) if:
(a) the second operator's license was issued to the person on or before January 1, 1991; or
(b) (i) the application for the second operator's license was received by the department on or before January 1, 1991;
(ii) a second on-premises alcoholic beverages license was obtained for the premises on or before January 1, 1991; and
(iii) substantial physical modifications to the premises were made on or before January 1, 1991.""

Renumber: subsequent section

That such amendments read:

1. Title, lines 4 and 5.
Strike: "A" on line 4 through "INTERESTS" on line 5
Insert: "ONE OR MORE COMMON OWNERS"

2. Page 1, line 19.
Strike: "OR"
Insert: ","
Following: "for"
Insert: "or the transfer of which was validly contracted for"
Strike: "JANUARY 1"
Insert: "February 1"

3. Page 1, line 20.
Strike: "5-YEAR"
Insert: "10-year"

4. Page 2, line 14.
Following: "agreement"
Insert: "involving real property"
Following: "except"
Insert: ": (A)

5. Page 2, line 15.
Following: "businesses"
Insert: "; or (B) an agreement by a licensee to lease premises from a person or entity that also leases other premises in the same building or structure to one or more licensees if there is no other common ownership between any of the licensees"

6. Page 2, line 17.
Following: "provides"
Strike: "or guarantees"

7. Page 2, line 18.
Following: "financing for"
Strike: "the" through "costs."
Insert: ": (A) the purchase of the liquor license;
(B) the purchase of the premises; or
(C) operating expenses of more than $25,000, except for expenses allowed under 23-5-130."

8. Page 2, line 29.
Following: "loan"
Insert: ", except a loan guaranteed by a route operator who would not otherwise be considered a common owner"

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON HOUSE BILL 537

**Call to Order:** By **CHAIRMAN JOHN HERTEL**, on April 6, 1995, at 8:00 a.m.

ROLL CALL

**Members Present:**
Sen. John R. Hertel (R)
Sen. William S. Crismore (R)
Sen. Dorothy Eck (D)
Rep. Royal C. Johnson (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)

**Members Excused:** N/A

**Members Absent:** N/A

**Staff Present:** Bart Campbell, Legislative Council
Lynette Lavin, Committee Secretary

Statement by Sponsor: **REP. DON LARSON, HD 58, Seeley Lake,** sponsored **HB 537**, the "stacking bill", which prevented, in the future, the stacking of liquor licenses for the purpose of acquiring additional gaming machines. The intent of that basic bill was never in question. **REP. LARSON** said it was unanimously passed by the House and carried substantially out of the Senate.

**REP. LARSON** stated the controversy was the grandfathering of the existing stacked machines. There were some choices that could be made. The committee could accept the bill as it left the House, accept the bill as it left the Senate committee, accept the bill as it left the Senate floor, or it could be left as it was. The bone of contention in the House was a five or a ten year grandfather clause for those businesses that had made capital outlays and stacked. They had stacked legally under the terms of the 1991 law, but they had bent the rules; however, investments were made. Those individuals who worked on the bill, from the industry and the legislators, agreed to a ten year stacking exclusion. That was amended out in the House and reamended in the Senate committee. He related there were two individuals from Missoula and Butte, who had a special circumstance, where they had made capital outlays and stacked before 1991 and were given an exclusion in the Senate.

**REP. LARSON** recommended the bill should remain as it left the Senate floor. There could be damage done to the bill on the Senate floor if there were changes. He declared **Mark Staples**, of the Montana Tavern Association, with the permission of the committee, had a definite perspective to comment on **HB 537**.

Background Information: **Mark Staples**, gave a historical perspective of the bill. Last June it became clear, statewide, problems were arising on the phenomenon of stacking. It wasn't unanimous; however, the overwhelming majority of the Montana Tavern Association thought there was a real problem. Those individuals who had acted legally and made significant investments, did not think there was a problem. **Mr. Staples** thought there was a question of legislative intent, not actually individuals "bending the rules". He stated they arrived at an agreement of this being a self-policing measure.

**Mr. Staples** reported the Montana Tavern Association brought this bill up and the Gaming Industry signed off on the bill with certain understandings. Originally it was thought this kind of legislation was unnecessary, but after a majority vote of the Association, it was thought to be necessary. Some people then wanted perpetual grandfathering. When the Senate Business and Industry Committee originally met, there were votes for a 25 year clause. When the ten year grandfather was settled between the industry it was with the agreement of those with investments that would be jeopardized that they would not hire their own lobbying force to oppose the ten year clause. He said they did not and that was one of the reasons the bill had gotten as far as it did.

**Mr. Staples** declared if the bill went back to the Senate with the five years there were many people who would oppose it (that didn't originally oppose it because of the ten year grandfather) and this bill could be lost. He thought, without this bill, there would be no limitation. It would be perpetuity; there would be 300 stacks by the time the legislature met again, and it would be too late. The 1991 legislation step didn't pass to limit it to two places. It was originally opposed because in 1991 they already had a five year grandfather and this gave them five years more. They would take the five years of the new grandfather for a total of ten. They then would just redesign their places and take the five years remaining of the ten year grandfather for a total of 15 years. That seemed unfair. They since had a legal opinion that if those people were given five years more, at the end of the five years, they had to get rid of one of those licenses. They would only get a total of ten years like everyone else and **Mr. Staples** said that was "fairness".

**Mr. Staples** related what happened on the floor of the House was real confusion. It was unclear whether **REP. LARSON** was going to move to accept the Senate amendments or reject the Senate amendments. Some people thought **REP. LARSON** was going to move to reject the Senate amendments and thus were poised to oppose **REP. LARSON's** motion. When **REP. LARSON** made the motion to accept the

Senate amendments, there was a general confusion. He said if this bill was taken back to the House as it came out of the Senate, it would pass the House.

**Discussion**: **REP. ROYAL JOHNSON** referred to the original bill and substantiated by the fact sheet of the Montana Tavern Association and distributed by **REP. LARSON** to everyone in the House. The five or ten years was the point of contention. A great number of amendments that went on in the Senate probably didn't need to be added. Take the bill back to before it went to the Senate, the second section in the original bill codified the bill. Should the old stackers be grandfathered in the new clusters, the old stackers (three of them) had already been given five years in which to add more machines on their premises than anyone else in the state. Those stackers didn't need to build separate premises, so they didn't need the same construction costs to recoup. During the five years they have had, their extra licenses had grown in value and they had more than enough time to recoup the costs of putting in the extra machines.

**REP. JOHNSON** contended in addition to the advantage of the grandfather being offered the new clusters must then, simply, separate their premises which would not be an oppressive undertaking for either of the two establishments still at the original stacking configuration. Both already had several special rooms in which the enterprises could be placed. They would then have the same ten years as the other several dozen clusters would to recoup those investments and then divest of their practice entirely. He thought if the committee related that particular paragraph to what was currently being talked about here, five years vs. the ten years, there wasn't anybody who was going to make an investment that they didn't think they couldn't amortize over a period of time. Those people had the opportunity to put twenty more machines in place. **REP. JOHNSON** said if the average on those machines, in the state, was $30,000 and multiplied out, one could amortize a pretty fair size wall with that kind of money.

**REP. JOHNSON** declared there was no reason to extend it beyond that time. Every time the legislature did one of those situations, talked about a different sort of grandfathering condition, talked about changing it to take care of a couple of people, or a few people and so forth. If this bill failed because five years was not enough time, then it hadn't properly been worked out. The legislature could look at it again in two years and those people who were here could look at it again in two years and check if that was the correct situation. He had a serious problem when "negotiations" within the industry were talked about. The industry had a tremendous vested interest in this legislation and the thing the committee was here for was to protect the vested interest of the public, not the industry.

**REP. JOHNSON** thought this bill should be taken back to the original intent. It was originally presented by the tavern

owners to stop stacking of alcoholic beverages for the purposes of skirting the twenty game machine per location limit. That was exactly what this committee should do. He said these people should not be encouraged to build new premises or anything else.

**SEN. DOROTHY ECK** asked **REP. JOHNSON** if he was talking about the introduced bill or were there amendments made in the House. He stated there were amendments made in the House that took it from ten years to five years.

**REP. LARSON** mentioned the controversy over the two special exceptions that had come up and he examined their special circumstances. The Butte situation (Mr. Wheeler was sitting here in this room) was a special circumstance in that the building would be physically impossible to separate so he faced a special circumstance. It created enough attention in Butte Silver Bow community that the entire Butte local government interests came up to testify in favor of the bill. It was the only 24 hour establishment in Butte's downtown area that serviced the military people. He said it was a fairly valuable anchor business in the downtown area and they were very concerned that they could lose that business.

**REP. JOHNSON** stated currently the stacking situation was tied up in the courts. There hadn't been any stacking since. The Revenue Department had taken the position that to move liquor licenses back and forth and to put another liquor license on top of four other liquor licenses was not in the public interest. They had handled the situation. Stacking may start again and they may lose that case; however, that wasn't the case right now. The Revenue Department had stopped the stacking by virtue of not transferring the licenses. **REP. JOHNSON** remarked people could only stack if they had the licenses.

**SEN. WILLIAM CRISMORE** asked **Mr. Staples** earlier about that situation and wanted him to explain the court case to this committee. **Mr. Staples** stated he was the lawyer carrying those cases both through administrative procedures and through the Department of Revenue and now had to go to district court in Billings on those two (and perhaps three) cases. Case by case by case, etc., was a tough way to do that. The reason they brought about the legislation was to not have to protest every license. The Revenue Department was only stopping those licenses which were protested. To fight the protest, he had to go through administrative procedure, hearings, protests, appeals; he had written 600 pages worth of briefs just on two and he still had to go to district court. That was a stop gap, but certainly not a satisfactory one in lieu of a bill. Nobody was going to build new premises if the bill passed. The building stopped.

**Mr. Staples** reported he put the fact sheet out when he thought the 1991 stackers were seeking fifteen years. He didn't realize that they were only seeking five. That was before they had the legal opinion which said they couldn't put up the wall. He

didn't think they were denied out of the bill, they could even be included in the ten year grandfather.

**Motion: REP. ROYAL JOHNSON MOVED HB 537 BE TAKEN BACK TO THE ORIGINAL FORM AS IT LEFT THE HOUSE.**

**Discussion: REP. LARSON** stated when they brought the bill to the Senate Business and Industry Committee they made the recommendation that it was fair to grandfather back to the ten years. The subsequent amendment on the Senate floor was to further grandfather the two additions. He would resist that. He thought the $30,000 per machine was not a good number, because that was the amount of money that actually went through the machine. The net on the machine was considerably lower. **REP. LARSON's** machines averaged $6,000 per year on nine machines. Amortizing a building over five years was a substantial hardship. He was fearful that a tremendous amount of opposition would be generated against the bill if the committee reverted to a five year grandfather. He was confident there would be almost unanimous support from the industry if the ten year clause was retained. He said this was a policy decision for the committee.

**REP. JOHNSON** declared he would take the other side of that particular argument. It wasn't a matter if they had to amortize off this, or amortize off that; those people didn't want to do that. They didn't have to make an application for another license. He thought the legislature should not make it any more convenient or better for this industry than any other industry in the State of Montana. He thought they should be fair about it, but this industry should not be in the growth mode that it currently was in as it was not a fair situation.

**REP. JOHNSON** stated as far as the two grandfathered situations; he did visit with Mr. Wheeler about his building and that would be paid off by his situation. He had the advantage for the five years, as was printed out in the Tavern Owner's Association memo, that he had just read to the committee. He had that advantage for the last five years. He wasn't sure that was a fair comparison. **REP. JOHNSON** told the committee when the pamphlet was written, that was the bill, not the bill the committee was looking at today, which included the amendments.

**REP. BOB KEENAN** asked **REP. JOHNSON** if he would risk losing the whole bill on the Senate or House floor, as it was his concern that **HB 537** would be lost. **REP. JOHNSON** declared that was the risk whenever a bill was put out. He thought there were really good bills that would have affected this industry and the affect of those bills was they were both dead. He didn't think that was too bad a situation as everybody lost a bill once in a while. He thought since this was a Free Conference Committee, there were a couple amendments he would like to add. He would like to enable people to have a franchise without being in the gambling business to serve food, wine and beer. Many opponents claimed that would destroy the industry, which **REP. JOHNSON** said had nothing to do

with that. His contention that this piece of legislation when originally proposed was to give those people some sort of break because of the desire to stop stacking. **REP. JOHNSON** said it was not in the best interest of the public to stack one liquor license on top of the other.

**REP. KEENAN** stated when the word "franchise" was used, was this in reference to a liquor license. **REP. JOHNSON** stated "yes".

**SEN. ECK** reported she would agree with **REP. JOHNSON**. She thought for too long the industry had asked for protection from themselves; there was no other industry that was protected like the tavern owners, which now had the gambling interests as well. She has four or five businesses in Bozeman that were after her all the time, because they could not survive as restaurants without a liquor license and yet the tavern owners and the gambling interests took strong stances against that. She thought the committee would not lose the bill, but if so, the Department of Revenue would maintain their present stance.

**SEN. CRISMORE** remarked he was concerned about losing **HB 537** and in his area of Libby, there would be many ramifications. One group had moved in that dominated the industry and he didn't want to lose the bill.

**REP. LARSON** said there was one other point he had neglected to mention. In the Business and Industry Committee meeting, several housekeeping amendments were added. By accepting **REP. JOHNSON's** motion, he stripped those very necessary and valuable clean up amendments. There was a commonality of interests and language clarified and some language with regards to financial interests in the businesses that had to be clarified. **REP. LARSON** said that language would go with the amendment if **REP. JOHNSON's** motion was passed.

**REP. JOHNSON** conveyed if there was actually clean up language that did not change the intent of the bill, he had no problem at all of changing his motion to include clean up language. If there were changes in the bill, he would not change his motion.

**Bart Campbell, Legislative Council,** questioned the clarification of the amendment and asked **REP. JOHNSON** to correct him if that wasn't what he had intended; Section 2 which was added on the floor would come back out, the date would go back to January 1st instead of February 1st, the ten year would go back to five year, and retain 1, 4, 5, 6, 7, because they were clean up language. **REP. JOHNSON** answered **Mr. Campbell** that all was correct.

**SEN. JOHN HERTEL** explained he did know what work went into this during the Business and Industry Committee meeting. He did know a lot of negotiations went forth with it. It was held for about two weeks before Executive Action was taken allowing the different groups to work together for negotiations between the interested parties. He thought the amendments that were put on

it after the committee were something necessary. He thought he knew what the feeling would be on the Senate floor and if this was put back into the original form, as it came out of the House, there was not a good chance for passage on the Senate floor. He maintained it was a necessary bill and as **SEN. CRISMORE** stated, there were areas in the state that definitely had a problem with the stacking situation and something must be done now. **SEN. HERTEL** related he would like the amendments the Senate added to be included in **HB 537**.

Vote: **SEN. JOHNSON's** motion that **HB 537, AS IT CAME FROM THE HOUSE WITH THE EXCEPTIONS OF 1,4,5,6,7,8, FAILED 4-2** on roll call vote **(#1)**.

Motion: **REP. LARSON MOVED TO ACCEPT HB 537, AS IT LEFT THE SENATE AND ARRIVED AT THE HOUSE.**

Discussion: **REP. LARSON** stated this was a fair bill to business. He didn't think they were trying to make suggestions or inclusions for business. They were granted those liquor licenses by the Department of Revenue. They were granted the gambling licenses by the Department of Justice. Subsequent to those grants, those two agencies had changed their way of doing business and had started to resist the issuance of those licenses. Those people that did stack, did so legally. He said the question was the fair disposition of their assets.

**REP. JOHNSON** declared it was fair to let all those people who currently had licenses, but it was unfair to stop that now? That was not a fairness issue in his mind. If those people were entitled to that, then why weren't the other people. Why would the Revenue Department stop doing what they were doing. That was where it became unfair. He stated the industries put enough pressure on them to get those licenses through and right now the Revenue Department was standing back.

**REP. LARSON** related there were 1,600 licensees in the State of Montana. There were probably 40 or 50 that were stacked. Their interest in **HB 537** was to stop that practice. Stacking was just beginning relative to the overall size of the industry. He referred to **REP. JOHNSON's** beer and wine license bill and those were monied interests. **REP. LARSON** said if the stacking practice was stopped now, grandfather the few, the other licenses would be freed for the rest of the bona fide restaurants without gaming.

Substitute/Motion: **SEN. DOROTHY ECK MOVED A SUBSTITUTE MOTION TO AMEND INTO HB 537 AS IT CAME FROM THE SENATE, HB 495.**

Discussion: **SEN. ECK** stated **HB 495**, sponsored by **REP. JOHNSON**, allowed a special class of beer and wine licenses to those restaurants which had no gambling licenses.

**Mr. Campbell** stated there may be a problem incorporating the two bills.

**REP. JOHNSON** said since this was a Free Conference Committee the title could be changed, which would happen if the two amendments were taken out.

**REP. JOHNSON** stated he thought this was a good idea. The industry that proposed the bill said they didn't have any problem with the people who fought the bill the most, including **REP. LARSON.** He stated those licenses for people would cost about $500 and they had them where they wanted and they specifically prohibited gambling on their premises. Those licenses specifically prohibited separate places for people to drink. **REP. JOHNSON** said it was an opportunity for restaurants to have a beer and wine license, so customers who wanted a drink with their dinner could, in fact, have a drink with their dinner.

**SEN. CRISMORE** asked **REP. JOHNSON** what had happened to his bill, **HB 495**, had it been killed in the House or where. **REP. JOHNSON** said it never got out of committee. **SEN. CRISMORE** said that might jeopardize getting **HB 537** passed. **REP. JOHNSON** stated it didn't have anything to do with this bill, except to ride along with it. It did not allow any part of gambling. He said it specifically prohibited gambling in lots of places in the bill.

**SEN. ECK** stated really what they had in Montana only affected the major cities, where there was growth and a demand for good restaurants. Most places outside the city limits, even outside the city limits of Gallatin, liquor licenses were available for small amounts. In the cities, one might have to pay over $100,000 for a beer and wine license. **SEN. ECK** explained this meant it was no longer economically feasible for a new restaurant to come in and try to serve a dinner crowd that wanted wine or beer with their dinner.

**SEN. HERTEL** questioned **REP. JOHNSON** on the correlation of the two bills together, mixing oranges and apples? He thought there were two separate issues being bunched up into one. **REP. JOHNSON** explained there were a lot of similarities in those bills. Licenses were issued by the Department of Revenue and those licenses would be issued in exactly the same way. It allowed those people to issue licenses for this particular activity, didn't have anything to do with stopping, or starting, or increasing, or decreasing stacking, but it did state stacking had to do with licenses. The reason those people could not continue stacking was because the Revenue Department would not give them a license. This particular bill allowed the Revenue Department to give licenses to a restaurant and serve beer and wine, and didn't take anything away from the beer and wine operators. The correlation was there would be another type of license. This was just like they did for gambling establishments that had liquor and wine. **REP. LARSON's** bill made the point that if the stacking situation goes in, that ought to free up other licenses. **REP. JOHNSON** expressed it still was one of those types of situations where people were just trying to make a living in the food business and had this as an accessory.

**SEN. ECK** stated what they did when they allowed beer and wine licenses was to also allow gambling. That was the action that increased the value of those licenses. Before that, beer and wine licenses were relatively easy to come by and relatively inexpensive. Then people came in and argued the point that their value would be reduced and would undermine the money they had borrowed for their beer and wine licenses on that establishment. They had significantly increased the value of those licenses. She said to look at the restaurants that had no gambling, but had beer and wine licenses; their's were almost all licenses that were purchased before gambling went into effect and they paid only a modest amount for those licenses.

**REP. LARSON** spoke against the substitute motion because that would kill **HB 537**. He said the stacking bill would go down in flames. He stated those people who wanted to serve beer or wine with their food could purchase a license. His point being licenses were available. This bill, if passed, would free up other beer and wine licenses and that was a separate issue from this bill which was intended to stop stacking. He strongly urged the committee to resist the substitute motion.

**REP. JOHNSON** stated this bill would not go down on the floor as long as the committee members supported the bill.

**REP. LARSON** stated the argument that killed **REP. JOHNSON's** bill in the Business Committee was 300 new casinos would be created in Montana, because people with existing beer/wine licenses could sell those licenses, they would be grandfathered, and with a gambling option.

**Vote**: The substitute motion to amend **HB 537 INTO HB 495 FAILED 4-2** on roll call vote **(#2)**.

**Vote**: The motion by **REP. LARSON TO RETAIN HB 537 AS IT LEFT THE SENATE CARRIED 4-2** on roll call vote **(#3)**.

MONTANA SENATE
1995 LEGISLATURE
B&I FREE CONFERENCE COMMITTEE

ROLL CALL DATE April 6, 1995

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| SEN. WILLIAM CRISMORE | ✓ | | |
| SEN. DOROTHY ECK | ✓ | | |
| REP. ROYAL JOHNSON | ✓ | | |
| REP. BOB KEENAN | ✓ | | |
| REP. DON LARSON | ✓ | | |
| SEN. JOHN HERTEL, CHAIRMAN | ✓ | | |
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# MONTANA STATE SENATE

April 5, 1995

The Honorable John Mercer
Speaker of the House of Representatives
State Capitol
Helena, MT 59620

Mr. Speaker:

I am directed by the Senate to inform the House of Representatives that the Senate, on April 5, 1995 by motion, acceded to the request of the House of Representatives and the President was authorized to appoint a Free Conference Committee to meet with a like committee of the House of Representatives to confer on Senate Amendments to House Bill No. 537.

The President appointed the following members:

Senator John Hertel, Chairman
Senator Bill Crismore
Senator Dorothy Eck

Respectfully,

Rosana Skelton

ROSANA SKELTON
Secretary of the Senate

*The Big Sky Country*

# MONTANA HOUSE OF REPRESENTATIVES

April 4, 1995

The Honorable Bob Brown
President of the Senate
State Capitol
Helena, MT 59620

Mr. President:

I am directed by the House of Representatives to inform the Senate that the House, on April 4, 1995, failed to concur with the Senate amendments to House Bill 537, "PREVENT STACKING OF PREMISES WITH COMMON INTERESTS AND VIDEO GAMING MACHINES", and by motion, the Speaker was authorized to appoint a Free Conference Committee.

The Speaker appointed the following members:

Representative Royal Johnson, Chairman
Representative Bob keenan
Representative Don Larson

The House requests that the Senate appoint a like committee to confer on House Bill 537.

Sincerely,

MARILYN MILLER
Chief Clerk

hfcc

# FREE CONFERENCE COMMITTEE

on House Bill 537
Report No. 1, April 6, 1995



Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 537** and considered:

1. Senate Committee on Business and Industry to the third reading copy, dated March 9, 1995; and

2. Senate Committee of the Whole Amendments to the third reading copy, dated March 20, 1995.

We recommend that the amendments for the Standing Committe and the amendments for the Committee of the Whole be adopted.

And this FREE Conference Committee report be adopted.

For the House:
R. Johnson

Chair
Keenan

Larson

For the Senate:
Hertel

Chair
Crismore

Eck

ADOPT

MONTANA SENATE
1995 LEGISLATURE
B&I FREE CONFERENCE COMMITTEE
ROLL CALL VOTE

DATE 4-6-95 BILL NO. HB 537 NUMBER 1

MOTION: HB 537 be taken back to original form as it left the house

| NAME | AYE | NO |
|---|---|---|
| SEN. WILLIAM CRISMORE | | ✓ |
| SEN. DOROTHY ECK | ✓ | |
| REP. ROYAL JOHNSON | ✓ | |
| REP. BOB KEENAN | | ✓ |
| REP. DON LARSON | | ✓ |
| SEN. JOHN HERTEL, CHAIRMAN | | ✓ |
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MONTANA SENATE
1995 LEGISLATURE
B&I FREE CONFERENCE COMMITTEE
ROLL CALL VOTE

DATE 4-6-95 BILL NO. HB 537 NUMBER 2

MOTION: Substitute Motion:
Amend HB495 into HB 537
as it came from the Senate

| NAME | AYE | NO |
|---|---|---|
| SEN. WILLIAM CRISMORE | | ✓ |
| SEN. DOROTHY ECK | ✓ | |
| REP. ROYAL JOHNSON | ✓ | |
| REP. BOB KEENAN | | ✓ |
| REP. DON LARSON | | ✓ |
| SEN. JOHN HERTEL, CHAIRMAN | | ✓ |
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MONTANA SENATE
1995 LEGISLATURE
B&I FREE CONFERENCE COMMITTEE
ROLL CALL VOTE

DATE 4-6-95 BILL NO. HB 537 NUMBER 3

MOTION: Accept HB 537 as it left the Senate and arrived at the House

| NAME | AYE | NO |
|---|---|---|
| SEN. WILLIAM CRISMORE | ✓ | |
| SEN. DOROTHY ECK | | ✓ |
| REP. ROYAL JOHNSON | | ✓ |
| REP. BOB KEENAN | ✓ | |
| REP. DON LARSON | ✓ | |
| SEN. JOHN HERTEL, CHAIRMAN | ✓ | |
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